
HAWAII ENERGY EMERGENCY PREPAREDNESS REFERENCE BOOK

SUPPLEMENT TO THE STATE OF HAWAII
ENERGY EMERGENCY PREPAREDNESS PLAN



July 2008



REFERENCE BOOK

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EXECUTIVE SUMMARY

This Reference Book is intended to provide an elaboration relative to key elements the State of Hawaii Energy Emergency Preparedness Plan (EEPP). It discusses and illustrates organizational relationships and components, and provides primary reference materials as a basis for policies, procedures, protocols, and actions taken in the EEPP.

The “history of the EEPP” is discussed in terms of initial planning concepts that began decades ago in a regulated petroleum market. It was during this timeframe (1974) that the Hawaii State Legislature granted the Governor broad emergency powers that could be exercised in the event of an energy shortage. These authorities are still largely in effect and can be found in Chapter 125C, Hawaii Revised Statutes (included in Part 6.0). Subsequent to the oil supply disruptions brought about by the Arab oil embargo (1979-80), the oil industry was deregulated and now relied on market forces to regulate the price of oil and influence supplies. This created the need for the State of Hawaii, as well as other states, to develop contingency plans suited for their unique circumstances.

Hawaii’s continuing planning efforts led to the formation of the Governor’s Energy Emergency Preparedness Advisory Committee (GEEPAC) and the State of Hawaii Energy Council (EC). The “advisory” nature of the GEEPAC provides the Governor and DBEDT with government, industry, and consumer feedback relative to the effectiveness of energy policies and programs implemented during an energy shortage. The EC, however, is primarily established to directly supplement operational functions within the Shortage Management Center (SMC). The Reference Book examines these two bodies relative to their function, make-up or membership, and purpose, with a view toward creating a “solution oriented” coalition during an energy shortage.

In the aftermath of the September 11, 2001 terrorist attacks, the federal government responded with a new and vigorous focus on homeland security. Federal mandates now shape the manner in which state and local governments prepare for, respond to, and recover from, incidents of national significance, to include energy emergencies. Compliance issues relating to the National Response Framework (NRF), the National Incident Management System (NIMS), and the National Infrastructure Protection Plan (NIPP), have significantly changed the nature of existing plans and protocols for the State of Hawaii. The Reference Book contains a “Compliance Matrix” that illustrates the current status of the State of Hawaii relative to these mandates. State Civil Defense, DBEDT, and all other State Agencies that have ESF responsibilities as set forth the State Emergency Plan must comply with National Standards and Directives as described above, as a condition of approval for ALL federal grants.

Lastly, the Reference Book includes supporting documentation describing Continuity of Government Operations planning requirements, along with a template that can be used as a guide for the development of COGO Plans for DBEDT and other agencies. Dated copies of the Hawaii Administrative Rules governing emergency fuel allocation as well as the Hawaii Revised Statutes are also included as concluding references.



1.0 INTRODUCTION

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1.1 Background

The revitalization of the State of Hawaii Energy Emergency Preparedness Program occurred in June 1991, with the completion of the State of Hawaii Energy Emergency Preparedness Plan and Reference Book.

The history of destabilizing events in the Middle East beginning with the Arab Oil Embargo in 1973, the Iran / Iraq War (1980-88), Iraq's invasion of Kuwait in 1990, withdrawal of Iraqi forces from Kuwait and the subsequent cease-fire in March of 1991, were all motivating events for many States to re-examine their policies and procedures addressing short, mid-term, and protracted energy shortages.

The destabilization of the world's energy supply continues to be at the core of emergency planning efforts today. The refocus of domestic energy infrastructure vulnerability resulting from the threat of terrorism, coupled with the impact on delivery systems, refineries, and other energy facilities resulting from natural disasters, contributes to the continuing need to update contingency policies, plans and procedures.

The State of Hawaii, Department of Business, Economic Development, and Tourism, (DBEDT) is responsible for the overall coordination of Emergency Support Function #12 (Energy). They also bear the responsibility for ensuring that Hawaii's energy emergency policies; plans and procedures are effectively maintained. In September 2004, DBEDT initiated an update process through a contractual agreement with EnviroServices & Training Center, LLC.

In November 2005, the National Association of State energy Officials (NASEO) published and distributed their State Energy Assurance Guidelines – Version 2. The guidelines provide many topical models and principles that can be incorporated into state energy emergency plans. These topics address the states' overall role in energy assurance, development of energy emergency response organizations, working with public and private stakeholders, and ways to facilitate the coordination of the energy emergency support function between the state and federal levels.

In February 2006, the Administration unveiled national policies promoting alternative energy research and development. The goal of these policies is to minimize or eliminate our Nation's dependency on foreign oil and to provide viable alternative energy resources for an ever-growing population through the use of technology.

Hawaii continues to promote progressive energy policies. Under the stewardship of the Department of Business, Economic Development, and Tourism, this Reference

Book and accompanying Energy Emergency Plan will enhance the current direction of Hawaii's energy policies and programs now and into the future.

1.2 Purpose of the Reference Book:

The Reference Book is not a directing document. It does not contain detailed procedures and protocols for energy emergency responders. The Reference Book is intended to be a principal information and reference document. It discusses organizational relationships and components, provides illustrations, background, and other related information. In short, the Reference Book provides a rationale and basis for the Energy Emergency Preparedness Plan and facilitates the mission of DBEDT as described in the subsequent paragraphs.

The Strategic Industries Division (SID) of the Department of Business, Economic Development and Tourism (DBEDT) is responsible for the administration, implementation, monitoring, and sustained operation of the State of Hawaii Emergency Support Function (ESF) #12 - Energy to include the following specified actions as appropriate:

- ◆ Activation and sustained operation of appropriate components of the Hawaii Energy Emergency Plan pursuant to a Gubernatorial Proclamation of an Energy Emergency, or at the direction or request of Hawaii State Civil Defense (SCD).
- ◆ Activation and sustained operation of appropriate functions, activities, and programs that comprise the Shortage Management Center.
- ◆ Ensure intra / inter-agency coordination among all primary and supporting agencies and organizations pursuant to ESF #12.
- ◆ Demobilization of personnel, facilities, and resources as required at the conclusion of the event or occurrence.

In order to successfully perform the foregoing duties and responsibilities, DBEDT must coordinate with many other government entities, as well as private organizations. Additionally, all emergency plans, procedures, and protocols must be consistent with recent national mandates.

In the chapters that follow, the Reference Book will illustrate and provide base information to support these important relationships, will illustrate integration strategies, as well as consistency with national standards.

2.0 HISTORY OF THE HAWAII ENERGY EMERGENCY PREPAREDNESS PLAN

2.0 HISTORY OF THE ENERGY EMERGENCY PREPAREDNESS PLAN

2.1 Initial Planning Concepts: Regulated Petroleum Market

Prior to the oil embargo by the Arab bloc of oil producing countries in 1973, oil was considered plentiful, cheap and virtually inexhaustible. The future of oil, along with the ever-increasing horsepower of American cars, seemed to have no bounds or limits. Gasoline prices remained low and the many retail outlets competed for business by implementing promotional “give-away” programs. Free drinking glasses, green and blue chip stamps and developing coin games. While prices remained relatively stable with the exception of periodic “gas wars,” prices may have been a slightly higher than those of a true deregulated market. Oil was truly the fuel that fed the economic engine of the U.S. economy.

While the oil embargo, which only targeted the United States and the Netherlands, resulted in very little oil being held out of the world oil market, its impact on the United States was magnified significantly by the federal government actions and the public reaction to the situation.

The public’s reaction to the news of the embargo, while predictable, was still quite astonishing. As many panic-stricken motorists descended on their local service stations en masse, they created long lines and began to exhaust inventories at some stations. Service stations that were approaching their next fuel delivery cycle, had the lowest inventories and were the first to run out of gasoline. The closure of these stations, the posting of “out of gas” signs, the roping off of service station driveways drove many of the nation’s communities into an even greater state of panic and chaos.

The federal government instituted controls over prices and supplies in an attempt to stem the panic. The ensuing confusion over rapidly written regulations and the severe penalties for infractions further exacerbated the situation and probably extended the negative impacts of the existing condition longer than would have been the case if controls had not been implemented. While companies and states began to exercise and assume responsibilities under the regulations, a state set-aside provision was implemented to allow states to direct a small amount of fuel to address economic and service related hardships.

The 1973 oil embargo resulted in many states adopting legislation to address future oil shortages. These adopted provisions, while varying from state to state, often resulted in the creation of energy coordination and planning entities within state government. Some states created separate offices, commissions, or departments, while others embodied the energy planning and coordination functions within existing departments.

During this time period the State of Hawaii began to assume responsibilities both within and independently of the federal regulations. The 1974 Legislature granted the Governor broad emergency powers that could be exercised in the event of an energy shortage (Chapter 125C, Hawaii Revised Statutes), and established the position of Energy Resources Coordinator in the Office of the Governor (Chapter 196, HRS). In 1978, an amendment to Chapter 196 specified that the Director of Business, Economic Development & Tourism (DBEDT) “shall serve as Energy Resources Coordinator.”

Since the 1980s, the federal government has relied on the market to regulate and manage shortage conditions. The government also relied on the Strategic Petroleum Reserve (SPR) and International Energy Agency to reduce demand and share resources in the event of an extreme oil shortage resulting from an embargo. The 1991 Gulf War resulted in the embargo of 4.3 million barrels a day from Iraq and Kuwait, resulting in the use of the SPR and prices to reduce demand.

2.2 Impact of a Deregulated Market: Rationale for Change

The 1979-80 oil supply disruption was a significant “wake-up call.” It pointed to the need for more aggressive and comprehensive energy contingency planning. The federal government returned to allocations, which were out of date, and were the primary cause of the crisis on the mainland. In 1981, with a new Administration leading the nation and a “free market” philosophy and approach to business, the oil industry was deregulated.

The deregulation of oil in the 1980s awakened market variables that had lain dormant in the regulated market. Deregulation slowly exposed the inefficiencies in the market and competition started to drive the more inefficient refiners and marketers out of the business. At the same time, air quality regulations requiring cleaner burning fuels accelerated the decline of small refiners who were financially unable to make the necessary and costly modifications to meet the new standards.

Because most federal controls for dealing with energy shortages have been dismantled, the burden for managing such a contingency has shifted in large part to the state level. Total reliance on the free market approach, as exhibited in the 1991 Gulf War, is considered inadequate for maintaining essential public services during an emergency, and for preventing or minimizing the damaging economic impacts and social disruptions that could occur.

Therefore, the need arose for states to develop contingency plans suited for their unique circumstances. For example, Hawaii’s Energy Emergency Preparedness Plan addresses the vulnerabilities and geographical isolation factors that are unique to the State.

The United States is divided into Petroleum Administration Defense Districts or PADDs. PADD V (5) consists of the states of Alaska, Arizona, California, Hawaii,

Nevada, Oregon and Washington. Hawaii is distinctive because of its virtual isolation from the other Defense Districts. Most of the states within PADD V are closely linked by their oil supply network and share many of the same characteristics. Hawaii, however, has no pipeline connecting it to any of the mainland states. Thus, every barrel of oil must be shipped in from Alaska, the Pacific Rim, the Middle East, and elsewhere. This reliance on shipping increases Hawaii's vulnerability to disruptions.

Hawaii is unique in that it is almost totally dependent on petroleum for all of its energy needs. Petroleum provides the fuel that generates electricity. Petroleum also provides raw material for propane and LNG. Hawaii faces many uncertainties regarding federal energy policy and reliability of crude oil supplies. Hawaii remains vulnerable to significant supply disruptions. Two major hurricanes, Rita and Katrina that struck the gulf coast in 2005 could have resulted in the potential redirection of Alaska supplies to address shortages on the mainland.

During an energy shortage, one of the first mitigation strategies implemented by government is "voluntary and mandatory conservation measures." However, Hawaii is unique in that it has limited opportunities to reduce oil consumption through conservation programs. Automobile use profiles in Hawaii illustrate the highest percentage of essential driving than any other state. Because each island is relatively small and isolated from each other, Hawaii citizens cannot engage in recreational driving at a level commensurate with citizens on the mainland. This creates less opportunity to eliminate "nonessential" driving.

In addition, only the islands of Hawaii and Oahu have a significant public transit system that could be used reduce consumption. Another consideration is that most homes in Hawaii do not use space heating or air conditioning. Thus, opportunities for conservation in the state are limited.

Because most of Hawaii's energy use is for essential purposes, contingency planning as relates to petroleum fuel, focuses on controlling supply rather than attempting to reduce demand. Hawaii has therefore approached contingency planning in a measured manner that addresses the uniqueness of the islands.

2.3 Governor’s Energy Emergency Preparedness Advisory Committee (GEEPAC)

The GEEPAC is comprised of state officials and citizen representatives appointed by the Governor to assess the adequacy of energy emergency contingency plans and measures. During an actual shortage, the Committee will advise on the implementation of specific actions and will evaluate their impacts at appropriate times to decide whether the actions should be continued, modified, replaced, or ended.

An assessment of the function of this Committee notes that it is primarily a “sensory” organization representing a cross-section of service providers and consumers. In Part 4.0, the Reference Book examines the GEEPAC and its parallel purpose and configuration relative to the State of Hawaii Energy Council.

3.0 THE STATE OF HAWAII ENERGY COUNCIL

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3.1 Energy Council Representation and Responsibilities:

The Energy Council has, since its inception, performed similarly to a multi-agency coordination group. Collectively, the members of the Council have participated in preparedness activities in advance of natural disasters or other forms of related events.

During the response phase of the disaster, the Energy Council performs specific operational activities at the request of State Civil Defense, either at the SCD Emergency Operations Center, or other designated locations.

However, with the implementation of the updated Shortage Management Center organization, the Energy Council may alter its configuration and nature of activity based on the emergency management phases described in the Part Four of the updated Energy Emergency Preparedness Plan. These Phases are summarized below:

- ◆ **Preparedness:** Includes planning, training, exercises, exercise evaluation, and ensuring information management systems are in place.
- ◆ **Response:** Includes all “mission” response activity as determined by the Hawaii Energy Emergency Plan relative to the Shortage Management Center functions of “Operations, Planning, Logistics, and Finance/Administration.
- ◆ **Recovery:** The implementation and coordination of service and site-restoration plans, as well as actions necessary to resume normal department, agency, or business operations.
- ◆ **Mitigation:** Activities the department, agency, or business operation can take to reduce or eliminate risks and / or negative effects of the disaster or emergency when it again occurs.

Specific operating procedures for Energy Council representatives are detailed in Part 8.0 of the Hawaii Energy Emergency Preparedness Plan. However, the sections below will provide a summary of anticipated actions on the part of Energy Council members and the departments, agencies, and business organizations they represent.

3.2 Energy Council Preparedness Responsibilities:

The table below illustrates the recommended duties and responsibilities of the Hawaii State Energy Council for the Preparedness Phase. It is further recommended that the Energy Council provide periodic status reports and updates, to include requests for planning assistance, additional information or other preparedness needs, during scheduled Energy Council Meetings.

ENERGY COUNCIL MEMBERSHIP

PREPAREDNESS ACTIVITIES

CHAIR:

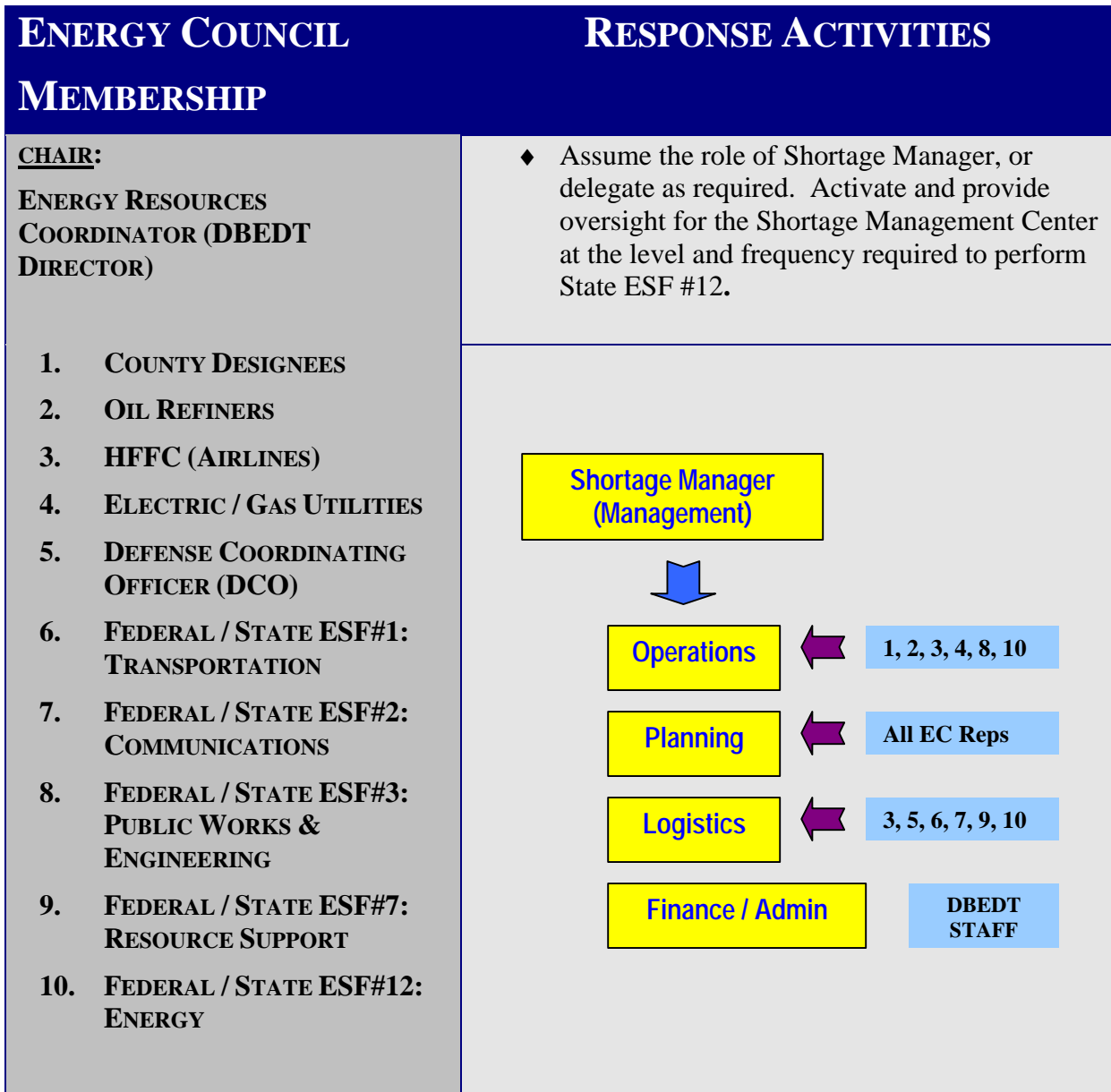
ENERGY RESOURCES COORDINATOR (DBEDT DIRECTOR)

- ◆ COUNTY DESIGNEES
- ◆ OIL REFINERS
- ◆ ELECTRIC / GAS UTILITIES
- ◆ HFFC (AIRLINES)
- ◆ DEFENSE COORDINATING OFFICER (DCO)
- ◆ FEDERAL / STATE ESF#1: TRANSPORTATION
- ◆ FEDERAL / STATE ESF#2: COMMUNICATIONS
- ◆ FEDERAL / STATE ESF#3: PUBLIC WORKS & ENGINEERING
- ◆ FEDERAL / STATE ESF#7: RESOURCE SUPPORT
- ◆ FEDERAL ESF#12: ENERGY

- ◆ Ensure that DBEDT staff coordinates with all member departments, agencies, and business organizations, to facilitate planning, training, and exercise activity at the level and frequency required to perform ESF #12.
- ◆ Update all energy emergency plans, procedures and protocols.
- ◆ Update emergency communications plans and procedures.
- ◆ Review and update as required all MSCA energy related policies and procedures (Military Support to Civil Authority)
- ◆ Update resource lists and resource distribution priorities.
- ◆ Update all facility site plans (private utilities and refiners)
- ◆ Participate in state and local energy emergency preparedness training and exercises.

Energy Council Response Posture:

During the response phase, the configuration of the Energy Council as an assembled group of “responders” may change significantly. The Energy Emergency Preparedness Plan illustrates a reconfigured Shortage Management Center (SMC) that is organized into 5 key functional components. These modifications ensure consistency with the National Incident Management System (NIMS) mandates. As such, many of the prior actions of the Energy Council may occur within one of the 5 functional components in the Shortage Management Center as illustrated below.

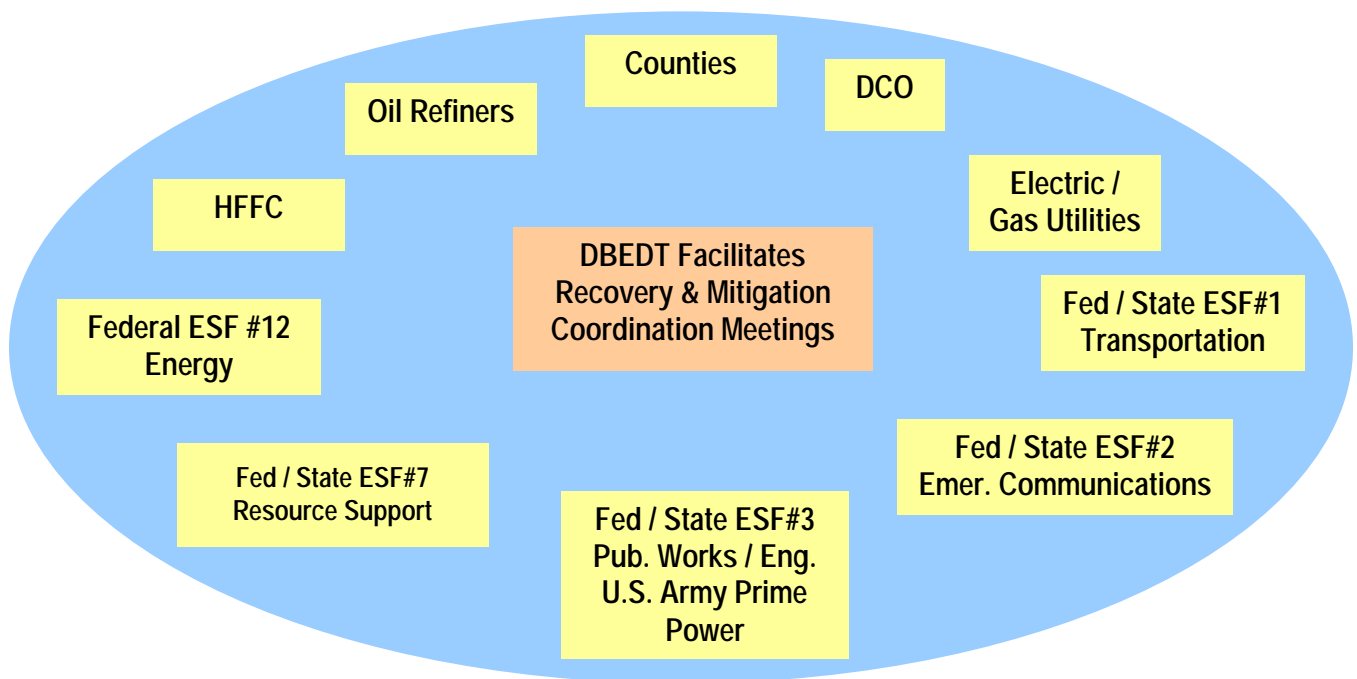


The Energy Emergency Preparedness Plan will provide detailed guidance for the Energy Council Members during the activation of the Shortage Management Center.

3.3 Energy Council Recovery Activities:

During the Recovery Phase, the Energy Council may convene in its traditional plenary form (*See Chart Below*). However, each member agency or organization will be involved in various activities associated with the recovery process. These may include the following:

- ◆ Site / services restoration
- ◆ Finance Administration / Fiscal Recovery
- ◆ Debriefing and After-Action Reports



3.4 Energy Council Mitigation Activities:

During the Mitigation Phase, the Energy Council should convene in its traditional plenary form for the purposes of networking and coordinating mitigation plans (*See above Chart*). During this phase, member agencies and organizations will participate in the following activities:

- ◆ Analysis of After-Action Reports
- ◆ Development of Mitigation Plans
- ◆ Energy Infrastructure Mitigation
- ◆ Critical Infrastructure Protection Plans

4.0 ENERGY COUNCIL AND GOVERNOR’S ENERGY EMERGENCY PREPAREDNESS ADVISORY COMMITTEE (GEEPAC) DISTINCTION

4.0 ENERGY COUNCIL AND GOVERNOR’S ENERGY EMERGENCY PREPAREDNESS ADVISORY COMMITTEE (GEEPAC) DISTINCTION

4.1 Representation and Responsibilities Profiles:

The purpose of this Section is to examine and compare representation and responsibilities of the Energy Council and GEEPAC; and to determine how there can be some form of collaborative advisories and / or operational feedback to the Shortage Management Center during an energy emergency.

The illustration below depicts the parallel representation and of both the Energy Council and GEEPAC:

GEEPAC MEMBERSHIP:	ENERGY COUNCIL MEMBERSHIP:
<p>PRINCIPAL: DBEDT DIRECTOR</p> <ul style="list-style-type: none"> ◆ STATE AGENCIES: <ul style="list-style-type: none"> ○ TRANSPORTATION ○ ATTORNEY GENERAL ○ PUBLIC UTILITIES COMMISSION ○ HEALTH ○ HUMAN SERVICES ○ DEFENSE ○ COMMERCE & CONSUMER AFFAIRS ◆ FEDERAL AGENCIES: <ul style="list-style-type: none"> ○ FEMA ○ U.S. DOE ○ U.S. DOD ◆ OIL REFINERS & DISTRIBUTORS ◆ ELECTRIC AND GAS UTILITIES ◆ COUNTY REPRESENTATIVES ◆ HAWAII FUELING FACILITIES CORP. ◆ COALITION OF GASOLINE DEALERS ◆ INTL. LONGSHOREMAN’S UNION ◆ HAWAII GOVERNMENT EMPLOYEES ASSOCIATION 	<p>CHAIR: DBEDT-SID ADMINISTRATOR</p> <ul style="list-style-type: none"> ◆ STATE AGENCIES: <ul style="list-style-type: none"> ○ ESF #1 TRANSPORTATION ○ ESF #2 COMMUNICATIONS ○ ESF #3 PUBLIC WORKS AND ENGINEERING ○ ESF #7 RESOURCE SUPPORT ○ PUBLIC UTILITIES COMMISSION ○ STATE CIVIL DEFENSE ◆ FEDERAL AGENCIES: <ul style="list-style-type: none"> ○ NRF REPS FOR ESF #1, 2, 3, &7 ○ U.S. DOE FOR ESF #12 ○ DEFENSE COORDINATING OFFICER ○ JTF-HD ◆ OIL REFINERS & DISTRIBUTORS ◆ ELECTRIC AND GAS UTILITIES ◆ COUNTY REPRESENTATIVES ◆ HAWAII FUELING FACILITIES CORP. ◆ BOARD OF WATER SUPPLY/KAUAI WATER

CHARACTERISTICS OF THE GEEPAC:

- ◆ Policy-level Executives and Managers
- ◆ Cross-section of government and private sector organizations
- ◆ Employee / Union Representatives
- ◆ Energy Industry Representatives
- ◆ Assesses effectiveness of energy emergency plans and procedures prior to energy emergencies
- ◆ During a declared emergency, provides feedback from member organization networks, to DBEDT and the Governor as relates to the effectiveness of implemented energy strategies and programs.

CHARACTERISTICS OF THE ENERGY COUNCIL:

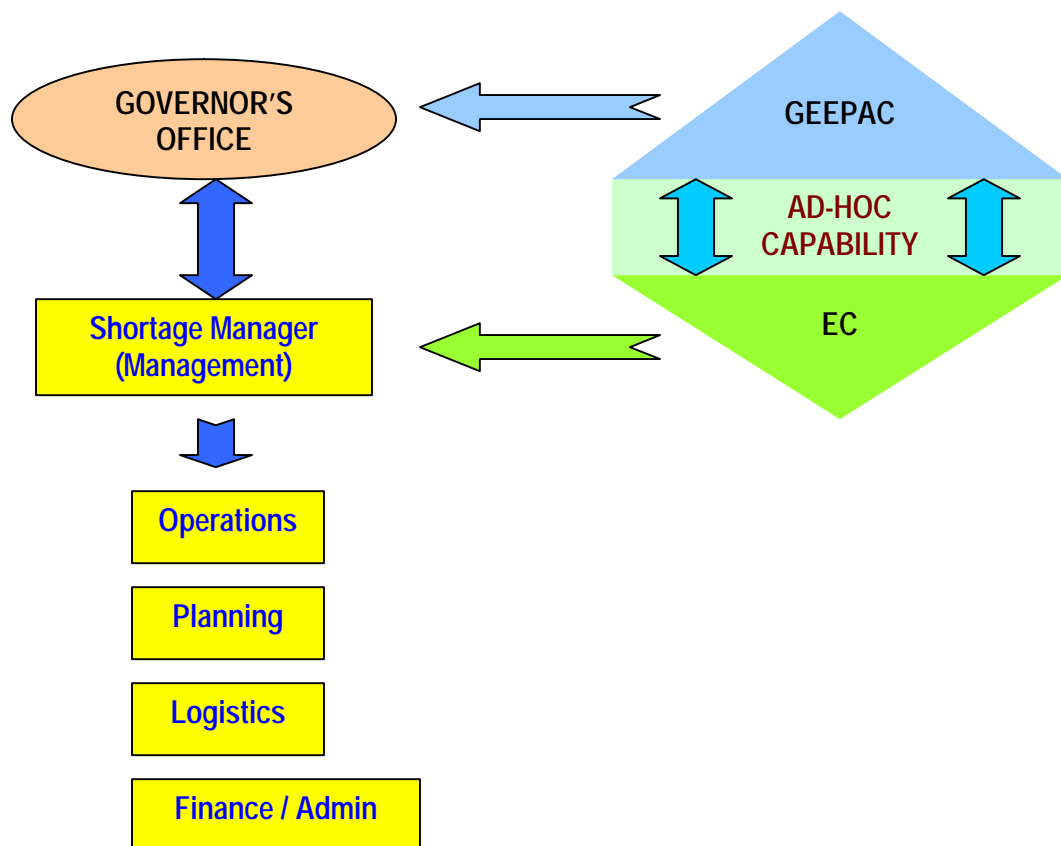
- ◆ Executives, Managers and Technical Representatives
- ◆ Cross-section of government and private sector organizations
- ◆ Energy Industry Representatives
- ◆ Meets regularly to review / update response procedures and protocols to ensure support to the Shortage Management Center
- ◆ During a declared emergency, the Energy Council performs specific operational duties in support of the Shortage Management Center, to include coordination of relative Emergency Support Functions.

4.2 Interaction Strategies:

The most compelling factor for designing an interaction strategy to facilitate collaboration between the GEEPAC and the Energy Council, is the organizationally duplicative nature of the membership of the entities. The following assumptions also provide further support for an appropriate level of coordination between the GEEPAC and the Energy Council, recognizing that the nature and severity of the disaster or event will determine the degree of integration that is feasible.

- ◆ In a severe and protracted energy emergency, it may not be possible for an agency or business organization to provide appropriate representatives to both the GEEPAC and the Energy Council.
- ◆ If only one representative is available, it may well be feasible for that representative to provide both feedback on program effectiveness (GEEPAC duties), and also provide direct support as required to the Shortage Management Center (Energy Council duties).
- ◆ If the GEEPAC and Energy Council are co-located during the Response Phase, then there is flexibility to perform either function and for communication to flow into the Shortage Management Center, as well as to the Governor's Office, through appropriate DBEDT channels.

The illustration below depicts a possible collaboration of the GEEPAC and Energy Council. In addition to providing direct support and advisories, the combined abilities of both entities may potentially be used as an ad-hoc strategy group to provide analysis (problem-solving) and alternative approaches as appropriate.



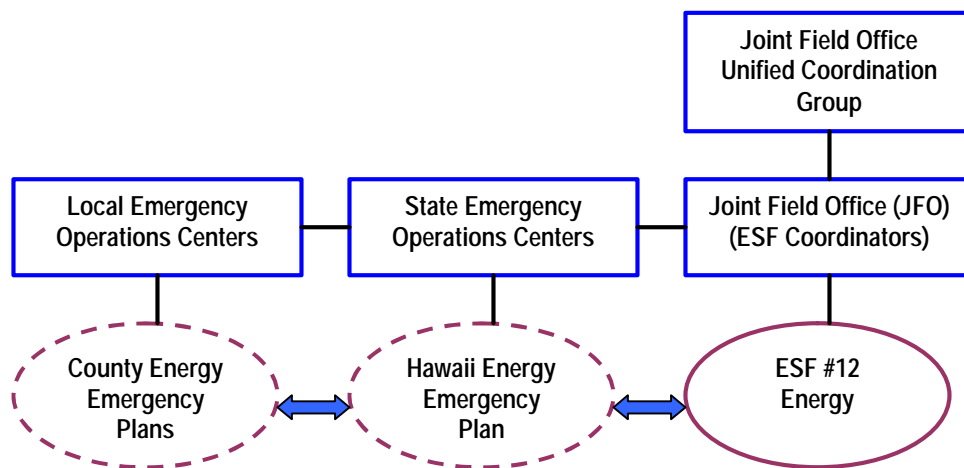
5.0 CONSISTENCY / COMPLIANCE WITH NATIONAL STANDARDS / DIRECTIVES

5.0 CONSISTENCY / COMPLIANCE WITH NATIONAL STANDARDS / DIRECTIVES

There are three principal components that provide the framework for National preparedness and response policies and strategies. These components are: the National Response Framework (NRF), the National Incident Management System (NIMS), and the National Infrastructure Protection Plan (NIPP). As a result of the recent updates and revisions, the State of Hawaii Energy Emergency Preparedness Plan is now in compliance with the majority of the requirements set forth in the National standards and directives. However, there are some areas where additional compliance measures should be undertaken. Compliance descriptions, illustrations, and comparisons are presented in this Chapter.

5.1 National Response Framework (NRF):

The Federal Government has implemented the National Response Framework (NRF) (<http://www.fema.gov/pdf/emergency/nrf/nrf-core.pdf>) to guide how the Nation conducts all-hazards response. It is built upon scalable, flexible, and adaptable coordinating structures to align key roles and responsibilities across the Nation, linking all levels of government, nongovernmental organizations, and the private sector. It is intended to capture specific authorities and best practices for managing incidents that range from the serious but purely local, to large-scale terrorist attacks or catastrophic natural disasters. The linkage of the NRF, with State Emergency Plans, to include the Hawaii EEP is a critical aspect of the overall National strategy. This response relationship is illustrated below:



Depending upon the type and scope of incident within the State of Hawaii (or any other State or Territory), the organizational model illustrated above would be implemented by the Department of Homeland Security at the appropriate level of activation. There are other functional components that would engage these core elements based on the type of incident.

It is important at this juncture to ensure that the relationships diagrammed in the illustration above are understood relative to their applications to State and Local emergency operations:

◆ ***Unified Coordination Group:***

The Unified Coordination Group (UCG) consists of specified senior leaders representing State and Federal interests, and in certain circumstances local jurisdictions, the private sector, or NGOs. The composition of the UCG will vary, depending upon the scope and nature of the incident and the assets deployed in support of the affected jurisdiction. The UCG, by consensus, determines appropriate strategies relative to type of support required, prioritizes support between multiple incidents in terms of resource allocation, and is the focal point for issue resolution. Priorities established by the UCG, particularly those associated with resource allocation are channeled to the Joint Field Office for implementation.

◆ ***Joint Field Office:***

The Joint Field Office (JFO) is the primary Federal incident management field structure. The JFO is a temporary Federal facility that provides a central location for the coordination of Federal, State, and local governments and private-sector and nongovernmental organizations with primary responsibility for response and recovery. The JFO focuses on providing support to on-scene efforts and conducting broader support operations that may extend beyond the incident site.his structure that communication and coordination occurs among the Emergency Support Functions, to determine the nature and level of support required. Each ESF is coordinated by a lead Federal agency with the operational capability, technical skill, and specialized resources necessary to provide categorical support.

◆ ***Emergency Support Functions (ESF):***

It is important to understand the nature of the categorical support provided by each ESF. They are listed below:

- ESF #1 Transportation**
- ESF #2 Communications**
- ESF #3 Public Works and Engineering**
- ESF #4 Firefighting**
- ESF #5 Emergency Management**
- ESF #6 Mass Care, Emergency Assistance, Housing, and Human Services**
- ESF #7 Logistics Management and Resource Support**
- ESF #8 Public Health and Medical Services**
- ESF #9 Search and Rescue**
- ESF #10 Oil and Hazardous Materials Response**

ESF #11 Agriculture and Natural Resources

ESF #12 Energy

ESF #13 Public Safety and Security

ESF #14 Long-Term Community Recovery

ESF #15 External Affairs

◆ ***State Emergency Operations Centers:***

State Emergency Operations Centers (State EOC) are the primary support organization for local government. In a manner similar to the JFO Coordinating Group, the State EOC must determine priorities for resource allocation. Additionally, it is the responsibility of the State EOC, based on the nature and status of the event or incident, to request Federal assistance from the JFO as deemed necessary. Assistance is provided to the State by the appropriate ESF.

Hawaii's State Emergency Operations Center replicates in principle and by title, all of the ESFs as defined in the NRP in addition to a number of Hawaii-specific ESFs. This promotes an effective coordination relationship for Federal agencies when responding to the State of Hawaii.

◆ ***Local Emergency Operations Centers:***

Within the State of Hawaii, "local government" is defined as the four County governments on Oahu, Maui, Hawaii, and Kauai. Each County is required to establish and activate at a level necessary a "local emergency operations center" to support incident commands. Once again, the primary responsibility of these EOCs is centralized coordination and support for field responders.

In summary, the NRF sets forth a core model for coordination and support among Federal agencies and between levels of government. While there are many additional complexities pursuant to National Security, specifically Terrorism events, this core model is sufficient to demonstrate the compliance issue.

5.2 National Incident Management System (NIMS):

Several NIMS elements are still under development at the National level; however, others are more definitive in terms of compliance factors. Once again, in order to achieve compliance, the State of Hawaii and its Counties must "certify" that it has included the major components of the NIMS in all emergency plans, procedures, and protocols, to include the Hawaii Energy Emergency Preparedness Plan and related County Energy Emergency Plans.

NIMS elements are as follows:

- ◆ **Preparedness**
- ◆ **Communications and Information Management**
- ◆ **Resource Management**
- ◆ **Command and Management**
- ◆ **Ongoing Management and Maintenance**

Preparedness Elements:

◆ ***Planning:***

Plans provide a description of how policies, procedures, protocols and specific guidance for personnel, the use of equipment and resources are applied in support of incident management and emergency response activity. Plans often set forth priorities, procedures for integrating multiple organizations or agencies, and ensuring adequate information capability for incident or emergency communications as well as information management.

◆ ***Training:***

Training includes standard courses related to the incident command system, multi-agency coordination, specific mission responsibilities, and the use of supporting technologies.

◆ ***Exercises:***

Personnel who are part of incident teams or emergency response teams must participate in realistic exercises that create a need for the responder to demonstrate skill and knowledge in the position he/she will occupy pursuant to the activation of agency emergency plans or incident operations plans.

◆ ***Personnel Qualification and Certification:***

This element requires the development of NIMS-related “National-level” performance standards. Performance standards are under development for numerous responder categories. State and local government responders must meet or exceed these performance standards.

◆ ***Equipment Acquisition and Certification:***

Emergency response agencies and personnel at all levels of government rely on various types of equipment to perform mission essential tasks. A critical component of operational preparedness is the acquisition of equipment that will perform to established standards, including the capability to integrate / communicate with similar equipment used by other jurisdictions in a joint response.

◆ ***Mutual Aid Agreements:***

Mutual-aid agreements are the means for one jurisdiction to provide resources, facilities, services and other required support to another jurisdiction during an incident or emergency response. Agreements should be in place between and among agencies or organizations that would engage in either requesting or providing mutual support or assistance.

Communications and Information Management Elements:

◆ ***Incident Management Communication:***

Requires that effective, interoperable communications processes, procedures, and systems exist to support a wide variety of incident activities involving multiple agencies, jurisdictions, and other organizations.

◆ ***Information Management:***

Requires that adequate information management systems be in place to include systems that support the effective channeling of inter-intra organizational communications and data.

Resource Management:

- ◆ The NIMS sets forth a standard process for resource descriptions, inventorying, mobilizing, dispatching, tracking, and recovery for the duration of the incident or event. These standard processes presently exist for many resource categories and additional standards are currently being developed.

Command and Management:

◆ ***The Incident Command System (ICS):***

The ICS sets forth a standard system that defines operating characteristics, interactive management protocols, and an organization structure for incident management, to be utilized by emergency response organizations throughout the duration of an incident.

The use of ICS is not optional. The State of Hawaii and the Counties must use the ICS whenever multiple agencies respond to incidents in the field. Based on the nature of activity required to implement the Hawaii EEP, it is presumed that DBEDT and associated agencies would have a minimal field response role. As such, ICS “Orientation” training programs for all involved personnel is recommended.

◆ ***Multi-agency Coordination Systems (MACS):***

The MACS provide the architecture to support coordination for incident prioritization, critical resource allocation, communications systems integration, and information coordination for incident management organizations at all levels of government. The NIMS Integration Center (NIC) recognizes that most States have designated Emergency Operations Centers or Coordination Centers. In most instances these established structures with varying degrees of enhancement, will qualify as a “Multi-agency Coordination System.”

The DBEDT Shortage Management Center has been redesigned to ensure compliance with the NIMS / Multi-agency Coordination System, requirement. The functions of Management, Operations, Planning, Logistics, and Finance Administration are subsumed within the Shortage Management Center Organization and will be utilized to “centrally coordinate” ESF #12 (Energy) operations.

◆ ***Public Information Systems:***

Defined as processes, procedures, and systems for communicating timely and accurate information to the public during crises or emergency situations.

The Management function within the Shortage Management Center embodies the Public Information System for DBEDT. Procedures and protocols have been developed to provide for a Joint Information Center (JIC) that would include both government and private industry Public Information Officers.

On-going Management and Maintenance:

- ◆ This compliance factor requires that incident management and emergency response organizations develop and maintain an oversight process to ensure that NIMS components and elements as described in this Chapter are periodically reviewed, refined, and updated as needed.

Supporting Technologies:

- ◆ This compliance factor requires that incident management and emergency response organizations keep abreast of emerging technologies to ensure future enhanced communications and information management systems capabilities.

5.3 National Infrastructure Protection Plan (NIPP):

Of the three pivotal National policies and directives, the NIPP leaves no doubt as to its primary purpose. In the aftermath of September 11, 2001, the Nation’s vulnerability to terrorist attacks was clearly demonstrated. The focus of the NIPP is on Critical Infrastructure and Key Resources (CI/KR).

The State of Hawaii, specifically DBEDT, must coordinate all CI/KR programs with the USDOE. DOE is the lead agency for coordinating protection programs for energy related CI/KR, to include production, refining, storage, and distribution of oil and gas, and electric power (except for commercial nuclear power facilities).

The NIPP Goals and Objectives:

Goal 1: Protect CI/KR against plausible and specific threats
<i>Objectives to meet goal Include:</i> <ul style="list-style-type: none"> • Increase awareness of the threat environment across CI/KR sectors • Integrate threat and vulnerability information into specific vulnerability reduction prioritization decisions • Use vulnerability assessment information when responding to specific threats • Identify and implement protective measures against specific threats
Goal 2: Long-term reduction of CI/KR vulnerabilities in a comprehensive and integrated manner
<i>Objectives to meet goal Include:</i> <ul style="list-style-type: none"> • Develop and maintain comprehensive national inventory of CI/KR assets and vulnerabilities that includes cyber, physical, and human aspects of each asset, including intangibles • Complete mapping of interdependencies among assets and across CI/KR sectors • Conduct vulnerability assessments for the Nation's critical infrastructure and key resources for both specific and general threats • Integrate infrastructure protection activities with those called for in other national-level plans to avoid overlaps and gaps • Reduce general vulnerabilities within and across sectors where needed
Goal 3: Maximize efficient use of resources for infrastructure protection
<i>Objectives to meet goal Include:</i> <ul style="list-style-type: none"> • Prioritize possible protective measures considering return-on-investment in light of inherent vulnerabilities, existing protective measures, and (when applicable) threat information • Encourage and support SSA responsibility for sectors to leverage sector-specific expertise • Identify market-based incentives for voluntary action by owners and operators • Ensure lessons learned and best practices are captured and shared for evolution into sector-accepted operational practices over time
Goal 4: Build partnerships among Federal, State, local, tribal, international, and private sector stakeholders to implement CIP programs
<i>Objectives to meet goal Include:</i> <ul style="list-style-type: none"> • Delineate roles, responsibilities, and accountability for actions • Develop necessary organizations, staffing, and training to carry out responsibilities • Request appropriate authorities and funding to allow actions to be implemented • Establish mechanisms for coordination and information exchange among partners • Develop mechanisms for tracking involvement and progress
Goal 5: Continuously track and improve national protection
<i>Objectives to meet goal Include:</i> <ul style="list-style-type: none"> • Develop mechanisms for tracking national- and sector-level vulnerabilities and progress in reducing those vulnerabilities • Make infrastructure protection activities and metrics part of the organization's overall operational metrics to reinforce the importance of CIP initiatives and activities • Develop a national risk profile (a high-level summary of the risk and protection for all sectors) to align threats with strategic decision making • Develop an information sharing system to support rapid dissemination of lessons learned

◆ **Private Partnerships:**

The NIPP acknowledges that in many instances critical infrastructure and key resources to include energy facilities statewide and nation-wide are owned and operated by the private sector. The NIPP presently relies on the assumption of a continuum of communication and coordination between privately owned facilities and state and local government to ensure that private companies undertake adequate “risk management” efforts.

The State of Hawaii Energy Council, private utilities and petroleum companies, DBEDT, and SCD have undertaken the development of a State / Industry Critical Energy Infrastructure Protection Program to address NIPP goals as outlined above.

5.4 DBEDT Compliance Matrix:

The Compliance Matrix that follows provides a simplistic reference illustrating the degree of consistency and compliance with National Standards and Directives pursuant to this Chapter. NOTE: Compliance with NIMS is a requirement for ALL States and Territories and is a condition of approval for ALL Federal Grant Applications.

5.4 DBEDT COMPLIANCE MATRIX

PRIMARY COMPONENT:	MAJOR COMPLIANCE REQUIREMENTS:	DBEDT COMPLIANCE STATUS:	COMPLIANCE FACTORS / ACTIONS REQUIRED:
<u>NATIONAL RESPONSE FRAMEWORK (NRF)</u>	<ol style="list-style-type: none"> <u>DBEDT integration with the NRF ESF #12 / U.S. DOE</u> <u>ESF #12 Communication and Coordination Capability with Local Government (County Energy Plans)</u> 	<ul style="list-style-type: none"> ♦ In Compliance ♦ In Compliance 	<ul style="list-style-type: none"> ♦ Shortage Management Center functions are principally the same as the JFO for ESF #12. ♦ DBEDT Shortage Management Center integrates with State Civil Defense through the State Emergency Operations Center for the coordination of ESF #12 ♦ Hawaii Energy Emergency Preparedness Plan integrates County Energy Plans with the State. ♦ County Energy Coordinators and other representatives are part of the Energy Council
<u>NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)</u>	<ol style="list-style-type: none"> <u>Command / Management:</u> <ul style="list-style-type: none"> ♦ Multi-agency Coordination Systems ♦ Incident Command System ♦ Public Information Systems 	<ul style="list-style-type: none"> ♦ In Compliance 	<ul style="list-style-type: none"> ♦ Shortage Management Center functions are principally the same as the JFO for ESF #12 and as such, meet or exceed the performance requirements of <u>Multi-agency Coordination Systems</u>. ♦ Public Information function to include protocols for establishing a Joint Information Center is integrated into the Management Function within the SMC. ♦ The SMC is not an Incident Organization subject to the tenets of ICS. As such, this requirement does not apply (See Preparedness / Training)

**NATIONAL
INCIDENT
MANAGEMENT
SYSTEM (NIMS)**
(CONTINUED)

2. Preparedness:

♦ **Planning**

♦ **In Compliance**

- ♦ **Hawaii Energy Emergency Preparedness Plan has been updated and integrates with the State of Hawaii Emergency Plan and County Energy Plans.**
- ♦ **ESF #12 Continuity of Government Operations Plans (COGO) under development.**

♦ **Training**

♦ **Compliance
Strategy In Process**

- ♦ **DBEDT-SID personnel to be trained to implement the EEPP.**
- ♦ **Energy Council and DBEDT-SID personnel assigned to the Shortage Management Center to receive Incident Command System (ICS) training.**
- ♦ **County Energy Coordinators need training to integrate the State EEPP into their local plans.**
- ♦ **State Civil Defense and other State Agencies to be briefed on the EEPP.**
- ♦ **All other Energy Council representatives to receive an orientation on the EEPP.**

♦ **Exercises**

♦ **Compliance
Strategy In Process**

- ♦ **DBEDT to schedule multi-agency tabletop and functional exercises designed to educate personnel and measure the effectiveness of the EEPP.**
- ♦ **Exercise evaluation, After-Action, and Corrective Action Plans will occur as part of this process.**
- ♦ **If required, the Plan and supporting documentation will be modified accordingly.**

**NATIONAL
INCIDENT
MANAGEMENT
SYSTEM (NIMS)**
(CONTINUED)

◆ **Personnel
Qualification and
Certification**

◆ **Not Applicable**

- ◆ **State Civil Defense (SCD) is the lead agency that determines the implementation of this Compliance Factor as relates to ESF personnel at the State level.**
- ◆ **ESF#12 is a highly technical area and involves varying coordination configurations in each State.**
- ◆ **The omnipresence of private energy providers and oil companies may limit the degree to which National certification and qualification standards can be determined for ESF #12.**

◆ **Equipment
Acquisition and
Certification**

◆ **Not Applicable**

- ◆ **State Civil Defense (SCD) is the lead agency that determines the implementation of this Compliance Factor as relates to State owned or leased equipment required to successfully perform each ESF.**
- ◆ **DBEDT in conjunction with other State or local government agencies may assist in the ESF #12 equipment “acquisition process” by providing transportation resources.**
- ◆ **Since energy facilities differ in their character and configuration, it is unlikely that equipment, machinery, or replacement parts associated with facility operations or restoration would be the subject of a National “capability standard.”**

◆ **Mutual Aid
Agreements**

◆ **In Compliance**

- ◆ **DBEDT, through the structure of the State of Hawaii Energy Council, has introduced and implemented the concept of reciprocal aid agreements by promoting “public/private partnerships.”**
- ◆ **ESF #12, energy providers, specifically the petroleum industry, is subject to anti-trust regulation. As such, they are limited in terms of**

**NATIONAL
INCIDENT
MANAGEMENT
SYSTEM (NIMS)**
(CONTINUED)

3. **Resource Management**

◆ In Compliance

the degree and manner in which technical information and assistance can be shared, even in a shortage event. However, this does not and has not hampered the willingness to offer basic energy facility restoration support on a reciprocal basis.

- ◆ Additionally, DBEDT through the sponsorship and promotion of the Energy Council has provided for a supply /delivery system restoration process among utility companies.

4. **Communications and
Information
Management**

◆ Incident Management Communication

◆ Not Applicable

- ◆ The revised structure of the DBEDT Shortage Management Center (SMC) identifies a “Logistics Function.” This function, to the degree applicable for ESF #12, is responsible for inventorying, mobilizing, dispatching, and tracking resources.
- ◆ As indicated previously, resource “descriptions” or “typing” as relates to ESF #12 operations would likely be minimal.
- ◆ State Civil Defense (SCD) is responsible on a statewide basis for implementing this Compliance Factor.

◆ Information Management

◆ Compliance Strategy In Process

- ◆ DBEDT SMC would not engage in on-scene incident management pursuant to ESF #12 coordination.

- ◆ The SMC will be implementing enhanced information management and inter/intra-agency

<u>NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS)</u> <i>(CONTINUED)</i>	<p>5. <u>Supporting Technologies</u></p> <p>6. <u>On-going Management and Maintenance</u></p>	<p>♦ Compliance Strategy In Process</p> <p>♦ Compliance Strategy In Process</p>	<p>communications capabilities.</p> <p>♦ The SMC will incorporate newer technology as relates to ESF #12 information management strategies. An endeavor will be to address Internet based State Fuel Set-Aside application procedures.</p> <p>♦ DBEDT has proposed modifications to 125C, HRS to ensure that ESF #12 policies, plans, procedures, and protocols (NIMS based), are updated and maintained as needed.</p>
<u>NATIONAL INFRASTRUCTURE PROTECTION PLAN (NIPP)</u>	<p>1. <u>Overall Goals and Objectives</u></p>	<p>♦ Compliance Strategy In Process</p>	<p>♦ DBEDT, SCD, U.S. DOE, and private industry partners are working jointly to develop Critical Energy Infrastructure and Key Resources (CI/KR) strategies; to include identification of threats and vulnerabilities.</p>

6.0 REFERENCES AND SUPPORTING DOCUMENTS

6.1 CONTINUITY OF GOVERNMENT OPERATIONS SAMPLE TEMPLATE

CONTINUITY OF GOVERNMENT
GENERIC STATE PLANNING GUIDE

GUIDE INSTRUCTIONS

This guide is based upon guidance from the *Department of Homeland Security (DHS) Headquarters Continuity of Operations (COOP) Guidance Document, dated April 2004* and the sample Concept of Operations (COOP) template developed by the Federal Emergency Management Agency (FEMA). It can be used as the basic foundation for Continuity of Operations/Continuity of Government (COOP/COG) Plans for State of California, Executive Branch agencies. Organizations are encouraged to tailor COOP/COG Plan development to meet their own needs and requirements. Organizations should include any additional elements that are helpful to understanding and implementing their COOP/COG Plan. The result will be a baseline plan that can be refined and enhanced over time.

COOP/COG Planning:

The changing threat paradigm and recent emergencies, including localized acts of nature, accidents, technological emergencies, and military or terrorist attack-related incidents, have shifted awareness to the need for viable Continuity of Operations (COOP) and Continuity of Government (COG) capabilities that enable agencies to continue their essential functions across a broad spectrum of emergencies in support of an enduring constitutional government. COOP/COG planning is simply a “good business practice” – part of the fundamental mission of all state and local agencies as responsible and reliable public institutions.

Though the COOP and COG concepts share similarities, they are distinct in their particular emphasis:

- **Continuity of Operations planning**
Is an effort within individual departments and agencies to ensure the continued performance of minimum essential functions during a wide range of potential emergencies. Essentially, it is the capability of maintaining the business of government under all eventualities. This is accomplished through the development of plans, comprehensive procedures, and provisions for alternative facilities, personnel, resources, interoperable communications, and vital records/databases.
- **Continuity of Government planning**
Is the preservation, maintenance, or reconstitution of the institution of government. It is the ability to carry out an organization’s constitutional responsibilities. This is accomplished through succession of leadership, the pre-delegation of emergency authority and active command and control.

This guidance provides instructions for all levels of government within the State of California for the development and implementation of COOP/COG plans in accordance with Executive Order S-04-06. Government organizations should develop a Continuity of Operations/ Continuity of Government plan as part of a comprehensive COOP/COG program.

A Note Regarding Plan Design:

A COOP/COG Plan is comprised of a number of component parts and should meet the needs of the various users of the plan and their roles in the overall COOP/COG program. In its entirety, a COOP/COG Plan should address not only high level, overview information about how an organization is supposed to respond to different types of disruptions, but also the operational detail necessary to support these disruptions.

While many individual employees of an organization will need to have knowledge of and access to some parts of the total plan, few will require the entire plan. The design of the organization's plan, and its various parts, should reflect the overall needs of the organization's COOP/COG program. Given the sensitivity of some of this information, the distribution of the plan and its associated documents should be assessed and appropriate security measures implemented. The required level of security may elevate this document to a "For Official Use Only" (FOUO) resulting in the ability to control and limit distribution of the plan. In addition, repetition of information may be necessary, since different individuals may only have access to portions of the plan.

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CONTINUITY OF OPERATIONS/ CONTINUITY OF GOVERNMENT PLAN

FOR:

-INSERT STATE AGENCY-

-INSERT STATE AGENCY LOGO-

<p>FOR OFFICIAL USE ONLY</p> <p>Insert agency text for this restrictive marking.</p>
<p>All personnel are reminded that information contained in this document is FOR OFFICIAL USE ONLY. It is to be used only to contact government personnel in response to an Agency emergency situation.</p> <p>Unauthorized use of this information may constitute an invasion of privacy.</p>

NOTE: The intent of this template is to suggest an acceptable form and format of a COOP/COG Plan master management document after the Plan is fully planned, designed, and developed. Some Plan capabilities implied by the contents of this template may require extensive development work after the Plan is designed.

COOP/COG PLAN APPROVALS

Each organization's senior level officials should acknowledge that they have read the COOP/COG Plan and understand their responsibilities should a disruption occur. The following sample language may be used for the acknowledgement:

By their signatures below, the following senior level officials certify that they approve this Continuity of Operations/Continuity of Government Plan (COOP/COG) and fully understand the continuity of business operation procedures that are to be followed in the event of an emergency that impacts the facilities and employees for which they are responsible.

Approved: _____ Date _____
 [Name/Title]

Approved: _____ Date _____
 [Name/Title]

Approved: _____ Date _____
 [Name/Title]

Approved: _____ Date _____
 [Name/Title]

Executive Summary

The executive summary should provide a 1-2 page overview of the overall COOP/COG Program, including policies, plans, processes, materials, and activities that support the organization's COOP/COG capability. It should briefly outline the organization and content of the COOP/COG Plan and describe what it is, whom it affects, and the circumstances under which it should be executed. Further, it should briefly discuss the key elements of COOP/COG Planning and explain the organization's implementation strategies.

Introduction

The introduction to the COOP/COG Plan should explain the importance of COOP/COG Planning to the organization. COOP/COG Plans address incidents that disrupt normal operations. They are needed to address exceptional and adverse operating conditions. The introduction should include typical adverse conditions anticipated to be covered by the COOP/COG Plan.

The introduction should also discuss the background behind continuity planning and may reference recent events that have led to the increased emphasis on the importance of a COOP/COG capability for the organization. It should explain the intended use of the document and the plan's architecture, i.e. how the COOP/COG Plan is organized and where information is housed. Remember, the COOP/COG Plan may consist of elements of other plans, such as emergency relocation plans, that physically reside external to this document and may be incorporated by reference.

Purpose & Assumptions

Purpose

The purpose section should briefly discuss applicable Federal and State guidance, affirm the organization's commitment to COOP/COG planning, and explain the overall purpose of COOP/COG planning, which is to ensure the continuity of mission essential functions. Because of today's changing threat environment, this section should state that the COOP/COG Plan is designed to address all hazard threats. Again, the emphasis here should be that COOP/COG Plans address circumstances when normal, standard operations become overwhelmed.

The purpose section should also explain that the plan identifies recovery strategies only for essential functions. Although there may be other important functions, this plan only covers those that are mission and time critical. A definition of essential function is useful to include here. An Essential Function is defined in *Federal Preparedness Circular 65* as a function that enables an organization to:

1. Provide vital or "mission critical" services;
2. Exercise civil authority;
3. Maintain the safety of the general public; or

4. Sustain the industrial or economic base during an emergency.

This section should also explain how the organization's essential functions are prioritized. These Priority classifications are based on recovery time objectives (RTOs). A RTO is an estimate of the maximum tolerable duration between when a disruption occurs and when the function is resumed under emergency conditions, i.e. the maximum amount of time the function can be down. The following classification system was used by OES to prioritize its essential functions and is included only as an example. An organization may choose different priority classifications based on their responsibilities and essential functions.

- ❑ A: Emergency response functions (0-2 hours)
- ❑ B: High impact on public health or safety (up to 24 hours)
- ❑ C: High impact on public safety and health, or on department critical operations (up to 72 hours)
- ❑ D: Moderate impact on public safety, health or department critical operations (1-3 weeks)
- ❑ E: Low Impact (3 weeks or longer)

Organizations can elect to use alternate criteria to determine the recovery priorities for its essential functions. Organizations should avoid using rank-ordering priority methods during the continuity process, since some essential functions may be equally important to the organization and have similar recovery time objectives. A discussion paper, ***Rating and Prioritizing an Organization's Functions for Continuity Planning***, is included in the program materials and available on the OES website. In addition, **Workshop II: Identifying Essential Functions & Operations Vulnerabilities** provides additional guidance on identifying and prioritizing essential functions.

Assumptions

This section should include the assumptions on which this COOP/COG Plan is based. Each COOP/COG plan is based on a set of assumptions that, if not true, will render the plan ineffective. The test for a planning assumption is: will the plan fail if the assumption is not true? The following is a sample set of basic assumptions:

- ❑ Emergencies or threatened emergencies may adversely affect the organization's ability to continue to support essential internal operations and to provide services to clients or support to external agencies.
- ❑ Personnel and other resources from the organization and other organizations outside of the area affected by the emergency or threat will be made available if required to continue essential operations.
- ❑ Emergencies and threatened emergencies differ in order of priority or impact.
- ❑ Whereas this COOP/COG Plan may be activated in response to a wide range of possible emergencies, the disruption scenarios employed in the

development of the Plan are described on Worksheet 4: Specific Threat Impact Assessment.

The specialized requirements of each individual organization may require additional or alternate assumptions.

Applicability and Scope:

Applicability

This section should describe the applicability of the Plan to the agency as a whole, as well as to specific personnel and groups within the organization. Additionally, this section should describe the role of other plans and their relationship to the organization's COOP/COG Plan. Other planning documents may include Operational Recovery Plans (ORPs), Emergency Operations Plans (EOPs), and Disaster Recovery Plans (DRPs). This section should distinguish COOP/COG Plan capabilities from these other plans and address specific contingency plans for particular risks that might be contained in this COOP/COG Plan.

Scope

This section should include the scope and limitations of the plan. COOP/COG Plans should strive to map out the restoration of normal operations and failed facilities or equipment with a skeletal crew and minimum resources needed to achieve this task. This section provides the focus for the planning efforts. The Plan's scope should encompass all of the organization's essential functions. The Plan must be based on the "worse case scenario," which would include the inaccessibility or unavailability of the organization's facility or building complex, and all of its contents. You should consider the division, business units, and essential functions covered by the COOP/COG Plan, the anticipated response time required to recover essential functions under emergency circumstances, and the period of sustainment.

This section should also include the organization's specifications regarding plan performance. For example, the organization expects a response time of 24-hours for all essential functions identified in the plan and a sustainment period of 30 days for those functions. Other specifications may include that the plan addresses emergencies that occur both with or without warning, or during on-duty or off-duty hours.

Limitations that are included in this section may include scenarios that this COOP/COG Plan are not contemplated to cover or vulnerabilities that have been identified during the planning process for which solutions are not yet available.

Essential functions:

The identification of essential functions is a prerequisite for all COOP/COG planning. It establishes the parameters that drive the organization's continuity planning efforts. In this section or in an annex, you should include a complete list of the organization's prioritized essential functions.

Essential functions are those organizational functions and activities that must be continued under any and all circumstances. The list should be based on the prioritization strategy introduced in **Section III-A: Purpose. Worksheet 1: Essential Functions**, which is the first of a series of worksheets provided as tools to work through the COOP/COG planning process, may be used to capture this information. In addition, **Worksheet 2: Essential Functions Questionnaire** is an additional tool that can be used to analyze whether a function is essential.

Unless an organization's essential functions are correctly and completely identified, its COOP/COG Plan may not effectively ensure that the most vital government services can be maintained in an emergency. For additional guidance regarding the identification and prioritization of essential functions, see OES' discussion paper titled ***Rating & Prioritizing an Organization's Functions for Continuity Planning*** and **Workshop II: Identifying Essential Functions & Operations Vulnerabilities**.

Use the information captured in **Worksheet 1** to complete Table 5-1 below.

Table 5-1: Prioritized Essential Functions for Insert Organization Name:

Department/Division/ Operating Unit	Essential Function	Priority (A, B, C, D, E)

Risk Analysis

A risk analysis is the process of collecting and evaluating information on risks and hazards that may impact agency operations. What are the sources of risk? This list can be, literally, infinite, if one considers all the possible bad things that can occur. The challenge is to identify those risks that are pertinent in the context of the government operations under consideration. These risks can typically be categorized into three groups:

1. Natural hazards, such as hurricanes, earthquakes, floods, and snowstorms;
2. Human-related hazards, or technological events, the consequence of negligence and human error in managing and operating our "built" environment, such as electrical power failures, transportation failures, communications systems failures;
3. Pro-active human hazards, sometimes called ***threats***, reflecting deliberate actions by individuals or groups to cause harm, such as workplace violence, bomb threats, and civil disturbances.

In this section, the organization should identify possible risks or hazards that may threaten the continuance of essential functions. The purpose of the risk analysis is to develop a list of hazards that are of such significance that they are reasonably likely to cause devastating harm to the agency if they are not effectively controlled. The objective of this analysis is to identify vulnerabilities in operations and take steps to mitigate losses and/or develop recovery strategies.

To complete a risk analysis, the organization should:

1. List all of the threats that may potentially have an impact on the organization's ability to deliver its essential functions. Examples of threats are included in the following table:

Natural Hazards	Technological Hazards	Human-Caused Hazards
Flood Fire Earthquake Hurricane Tornado Severe Weather Public Health Emergencies, E.g. Pandemic Flu	Material Spill Airplane Crash Power Outage IT Technology Failure Supply-Chain Failure Communication Outage	Terrorism Labor Strike Sabotage Contractor Dispute Regulatory Action Civil Disobedience

2. Assess the impact of the risk based on the severity of the impact of the threat and the probability of occurrence. **Worksheet 4: Specific Threat Impact Assessment** may be used to make this assessment. When assigning the probability of occurrence, you should also consider where the event is likely to occur in the context of whether the government operations under consideration are exposed to the risks.
3. Assess whether the organization has implemented effective control measures or other procedures that mitigate the occurrence of loss or damage resulting from this event.
4. Determine if the likelihood of occurrence of this threat is substantial enough to be included in the organization's COOP/COG Plan. When using Worksheet 4 to complete this assessment, risks with a score of 6 or higher are considered to cause a significant disruption to operations.

Vulnerability Assessment

In this section, the organization should provide a vulnerability assessment for each essential function. This assessment should identify scenarios that pose a risk to the continuity of the function. **Worksheet 5: Preliminary Vulnerability Assessment** may be used to capture this information.

In COOP/COG planning, the planning can become extremely cumbersome if specific plans were to be developed for every possible type and circumstance of something going wrong. The first step in preparing a vulnerability assessment is to survey or scan the environment of possible risks identified above and translate that environment into a set of risk scenarios.

For most operations, the following scenarios have proven to be sufficient:

1. Local facility disruptions, typically single buildings;
2. Region-wide disruptions affecting all or many government buildings in the region;
3. Disruption of a communications system;
4. Disruption of access to vital records or databases;
5. Disruption to availability of specialized equipment or systems, including computing systems (other than traditional communications systems);
6. Loss of services from a vendor or another government agency;
7. Unavailability of personnel.

Organizations should evaluate their risk environment to determine whether the disruption scenarios listed above are sufficient to cover their universe of risk or if other scenarios need to be added.

Worksheet 5: Preliminary Vulnerability Assessment is designed to capture information based upon the scenarios listed above. The first step is to estimate the consequences associated with the occurrence of a disruption scenario on an essential function. Although Worksheet 5 provides a suggested method for measuring degrees of disruption, organizations may choose the values they wish to use.

In the second step, determine whether your organization has existing capabilities to recover the essential function if the resource were lost for areas where a disruption may have major or significant impact on operations. Consider formal processes that are currently in place for recovering operations. For example, the IT Department may have a formal process for recovering the relevant computing system (operating platform and systems, application software, network access) at a third party vendor site. These formal processes or “standard operating procedures” should become part of the COOP/COG plan. The existence of the capability should be noted because it enhances awareness of how resiliency of operations is assured. Those areas where existing capabilities do not exist to recover the essential function are identified as vulnerabilities.

Resource Requirements

Now that you have determined that your organization must continue certain essential functions during an emergency, you must begin thinking about what resources you must have to get this done—while remembering that this entire operation is taking place in the middle of an emergency or disaster scenario. These resources include:

- ☐ Facilities or Work Sites
- ☐ Communications Systems
- ☐ Key Personnel
- ☐ Vital Records and Databases
- ☐ Vital Systems and Equipment
- ☐ Key Vendors
- ☐ Supporting Government Agencies or Departments

In this section, the organization should identify the minimum resource requirements needed to support each essential function. **Worksheet 3: Resource Requirements for Essential Functions** may be used to capture the critical resources needed by the organization to perform its essential functions. Worksheet 3 is designed to capture the resources used by the agency in normal (non-emergency) operating conditions. After these resources have been identified, the organization can work towards ensuring that the resources are protected at all times. For those resources that cannot be adequately safeguarded, the organization must select alternate or back-up resources in order to ensure that essential functions are available at all times.

Function Dependencies

Many of your organization's essential functions may rely on the availability of resources or functions controlled by another organization, including other agencies: federal, state and/or local governments; and private entities. In this section, organizations should identify these dependencies and link them to the essential function(s) that they support. You should identify the required recovery time objective (RTO) for each of these dependencies and indicate whether the organization is satisfied with the level of support or if this dependency represents a vulnerability.

Authorities and References:

This section should reference an annex that outlines all supporting authorities and references that have assisted in the development of this COOP/COG Plan. This section should also include any federal, state, or local ordinances that allow for the designation of emergency or temporary locations for the seat of government, or the actions required to transition the affairs of state government. In addition, it should include any specific provisions that allow for the delegation of authority.

Concept of Operations:

This section should briefly explain how the organization will implement its COOP/COG Plan, and specifically, how it plans to address each critical COOP/COG element. This section should be separated into three phases: activation and relocation, alternate facility operations, and reconstitution. Organizations should also develop an executive decision process that would allow for a review of the nature and extent of the emergency to determine the best course of action for response and recovery. This process will preclude premature or inappropriate activation of an organization's COOP/COG Plan. Operational details necessary to implement the plan should be contained in a Concept of Operations Annex to the plan. A discussion paper titled ***Executive Command & Control Issues*** is available for further guidance.

Phase I: Activation and Relocation

The Phase I section should explain COOP/COG Plan activation procedures and relocation procedures from the primary facility to the alternate facility. This section should also address procedures and guidance for non-relocating personnel.

Decision Process

This section should explain the logical steps associated with implementing a COOP/COG Plan, the general incident escalation process, the circumstances under which a plan may be activated (both with and without warning), and should identify who has the authority to activate the COOP/COG Plan. This process can be described here or depicted in a graphical representation.

This section should also include a brief description of the organizational structure of the response teams, including the COOP/COG Initial Assessment Team, the COOP/COG Executive Command Team, and the Essential Function Recovery Teams. The roles and responsibilities of each team should be explained in this section. See the discussion paper titled ***Executive Command & Control Issues*** and ***Workshop IV: Command and Control and Constructing a COOP/COG Plan*** for further guidance.

Alert, Notification, and Implementation Process

This section should explain the events following a decision to activate the COOP/COG Plan. This includes employee alert and notification procedures and the COOP/COG Plan implementation process. Any tools used in the alert and notification process, such as notification trees or automated software should be noted in this section.

Table 7-1: Notification Procedure

Individual/Organization to be Notified:	To be Notified By:

Leadership Aspects

Lines of Succession

This section should identify lines of succession to key positions within the organization. The lines of succession should be of sufficient depth to ensure the organization's ability to manage and direct its essential functions and operations (at least three deep). The conditions under which succession will take place, the method of notification, and any temporal, geographical, or organizational limitations of authority should also be identified in this section. You should identify any existing statutes covering lines of succession. **Worksheet 14: Key Positions and Lines of Succession** may be used to capture this information and to complete Table 7-2.

Table 7-2: Key Positions & Lines of Succession:

Essential Function	Key Position	Successors

Delegations of Authority

This section should identify, by position, the authorities for making policy determinations and decisions at headquarters, field levels, and other organizational locations, as appropriate. Generally, pre-determined delegations of authority will take effect when normal channels of direction are disrupted and terminate when these channels have resumed. Such delegations may also be used to address specific competency requirements related to one or more essential functions that are not otherwise satisfied by the lines of succession. Delegations of authority should document the legal authority for making key decisions, identify the programs and administrative authorities needed for effective operations, and establish capabilities to restore authorities upon termination of the event. **Worksheet 15: Delegations of Authority** may be used to capture this information and to complete Table 7-3.

Table 7-3: Delegations of Authority:

Authority	Type of Authority	Position(s) Holding Authority	Triggering Conditions	Limitations on Delegation

Workshop IV: Command and Control and Constructing a COOP/COG Plan provides additional information on delegating authority.

Devolution

The devolution section should address how an organization will identify and conduct its essential functions in the aftermath of a worst-case scenario, one in which the leadership is incapacitated. The organization should be prepared to transfer all of their essential functions and responsibilities to personnel at a different office or location. You should identify any provisions, if any, for pursuing devolution and include a list of alternative agencies.

Workshop IV: Command and Control and Constructing a COOP/COG Plan provides additional information on devolution.

Relocation:

This section should include procedures for relocating essential functions, including required resources, to an alternate facility. This section should also include procedures for dealing with personnel who are not to be relocated to the alternate facility. If an organization has existing emergency relocation plans, they may be incorporated by reference. Phase II: Alternate Facility Operations & Recovery Strategies

The Phase II section should identify initial arrival procedures, as well as operational procedures, for the continuation of essential functions at an alternative facility.

Phase II: Alternate Facility Operations & Recovery Strategies

Alternate Locations

In the event of an emergency, identifying an alternate facility capable of supporting essential operations, positions, and personnel is critical. These facilities must be capable of supporting operations in a threat-free environment, as determined by the geographical location of the facility and the collective protective characteristics of the facility.

This section should include a list of alternate facilities to which essential functions will be relocated and the resources that are required to be available at the alternate location. In this section, you should identify existing alternate locations that have been identified, including memorandums of understanding (MOUs). This section should include strategies for moving and recovering essential functions at the alternate location, including the pre-positioning of supplies, mirroring computer systems and databases at the alternate facility, or putting service level agreements in place with key vendors.

Alternate facilities should provide:

- ☐ Sufficient space and equipment;
- ☐ Capability to perform essential functions within 12 hours, up to 30 days (or other time frame as determined by the organization);
- ☐ Reliable logistical support, services, and infrastructure systems;
- ☐ Consideration for health, safety, and emotional well-being of personnel;
- ☐ Interoperable communications; and
- ☐ Computer equipment and software.

7.4 Minimum Facility Requirements (Worksheet 7)

Essential Function	Number of Personnel	Equipment	Communications	Space Required	Security	Access

Mission Critical Systems & Equipment:

The section should address the organization's mission critical systems and equipment necessary to perform essential functions and activities. Organizations must define these systems and equipment and address the method of transferring/replicating them at an alternate site. (See Worksheet 12: Mission Critical Systems and Equipment)

Table 7-5: Mission Critical Systems & Equipment (Worksheet 12)

System or Equipment Name	Current Location	Other Locations

Vital Records and Databases:

This section should address the organization's vital files, records, and databases, to include classified or sensitive data, which are necessary to perform essential functions and activities and to reconstitute normal operations after the emergency ceases. Organizational elements should pre-position and update on a regular basis those duplicate records, databases, or back-up electronic media necessary for operations.

There are three categories of records to be reviewed and prioritized, then transferred (either hard copy or electronic media) to an alternate location:

1. Emergency operations records;
2. Legal/financial records; and,
3. Records used to perform state or national security preparedness functions and activities.

Table 7-6: Vital Records, and Databases (Worksheet 11)

Vital File, Record, or Database	Form of Record (e.g., hardcopy, electronic)	Pre-positioned at Alternate Facility	Hand Carried to Alternate Facility	Backed up at Third Location	Maintenance Frequency

Interoperable Communication:

This section should address the organization's mission critical communication systems necessary to perform essential functions and activities. Organizations must define these systems and address the method of transferring/replicating them at an alternate site. This section should address both operable and interoperable communications, which includes equipment with voice and/or text capability. Examples of such equipment include the following:

- ☐ Mobile Telephones
- ☐ Satellite Telephones
- ☐ Blackberries
- ☐ Two-way radios
- ☐ Pagers
- ☐ Non-secure Telephones
- ☐ Secure Telephones
- ☐ Internet connection for email and web access
- ☐ Facsimile

Table 7-7: Interoperable Communications Systems (Worksheet 9)

Communications System	Current Provider	Services Provided	Emergency Services	Alternate Providers or Modes

Human Capital (Protection of Government Resources / Personnel):

In this section, the organization should list existing procedures that are in place to protect an organization's resources, with an emphasis on personnel. This section should specify the resources and personnel to be transferred to the alternate site and the methods for safely transporting them to the site. It should also describe the various documents and checklists available to employees to encourage and facilitate individual and family preparedness.

Vendors & Other Agency Functions:

In this section, the organization should identify how it will continue to receive needed support from external vendors or supporting agencies at the alternate site.

Table 7-8: Vendors & Other Agency Functions

Name of Vendor or Supporting Agency	Description of Product or Service	Which Activity or Task Does this Vendor or Supporting Agency Support?	RTO	Can this Vendor or Agency Satisfy RTO?	Alternate Providers or Modes

Reconstitution & Resumption Strategies:

This section should explain the procedures for resuming normal operations – a time phased approach may be most appropriate. This section may include procedures for returning to the primary facility, if available, or procedures for acquiring a new facility. Notification procedures for all employees returning to work must also be addressed. Organizations should also anticipate developing an After Action Report (AAR) to determine the effectiveness of COOP/COG plans and procedures.

COOP/COG Planning Responsibilities:

This section should include additional delineation of COOP/COG responsibilities of each key staff position, to include members of the COOP/COG Senior Activation Team or Crisis Management Team, and possibly an Essential Function Recovery Team. Team members and individuals should be identified in the order of succession and delegation of authority. This section should also include responsibilities for the COOP/COG Planners responsible for normal day-to-day program support. List the position with the description of duties in **Table 7-9**.

Table 7.9: Key Positions & Description of Responsibilities:

Position	Description of Responsibilities

Tests, Training, and Exercises:

This section should address the organization's Test, Training, and Exercise (TT&E) Plan. Tests, Training, and Exercises familiarize staff members with their roles and responsibilities during an emergency, ensure that systems and equipment are maintained in a constant state of readiness, and validate certain aspects of the COOP/COG Plan. Managers may be creative when it comes to COOP/COG readiness and include snow days, power outages, server crashes, and other ad-hoc opportunities to assess preparedness.

To maximize the capabilities of potential responders, all employees should participate in the planning, implementation, and critique of exercises that test their COOP/COG plan. Testing the COOP/COG Plan will validate the plans, policies, procedures and systems; identify deficiencies in the COOP Plan and allow for subsequent correction.

The TT&E plans should provide:

1. Individual and team training of organization personnel;
2. Internal organization testing and exercising of COOP/COG plans and procedures;
3. Testing of alert and notification procedures;
4. Refresher orientation for COOP/COG personnel; and
5. Joint interagency exercising of COOP/COG plans, if appropriate (for example, situations where an organization's ability to deliver an essential function is dependent on a support function from another organization).

The effectiveness of the training exercises should be documented in a Post Exercise Assessment, which should be prepared within one to two weeks of the exercise, while memories are still fresh.

6.2 HAWAII REVISED STATUTES – CHAPTER 125C

CHAPTER 125C

PROCUREMENT, CONTROL, DISTRIBUTION AND SALE OF PETROLEUM PRODUCTS

Part I. General Powers and Procedures During a Shortage

Section

125C-1 Findings and purpose

125C-2 "Shortage" defined

125C-3 Powers in a shortage

125C-4 Adopting, filing, and taking effect of rules

125C-5 Publication of rules and declarations

125C-6 Petition for adoption, amendment, repeal, or suspension
of rules

125C-7 Repealed

125C-8 Personnel; delegation of powers

125C-9 Investigations and surveys

125C-10 Fraud; misdemeanor

125C-11 Repealed

Part II. Hardship Set-Aside and Allocation of Petroleum Products During a Shortage

125C-21 Definitions

125C-22 When set-aside required

125C-23 Set-aside system

Part III. Energy Emergency Planning

125C-31 Biennial state energy emergency preparedness plan

125C-32 Biennial county energy emergency preparedness plans

Cross References

Petroleum industry information reporting, see chapter 486J.

PART I. GENERAL POWERS AND PROCEDURES DURING A SHORTAGE

Note

Part heading added by L 1984, c 238, §1.

§125C-1 Findings and purpose. The legislature finds that adequate supplies of petroleum products are essential to the health, welfare, and safety of the people of Hawaii, and that any severe disruption in petroleum product supplies for use within the State would cause grave hardship, pose a threat to the economic well-being of the people of the State, and have significant adverse effects upon public confidence and order and effective conservation of petroleum products. The purpose of this chapter is to grant to the governor or the governor's authorized representative the clear authority, when shortages of petroleum products occur or are anticipated, to control the distribution and sale of petroleum products in this State, to procure such products, and to impose rules that will provide extraordinary measures for the conservation of petroleum products and for their distribution and sale in an orderly, efficient, and safe manner. [L 1975, c 38, pt of §1; am L 1984, c 238, §2; gen ch 1985]

§125C-2 "Shortage" defined. As used in this chapter, unless otherwise indicated by the context, a "shortage" exists whenever the governor determines that there is an increase in the demand for any petroleum product or there is a decrease in the available supply for the petroleum product in question, or both; and such decrease in the available supply of or increase in the demand for the petroleum product in question, or both, may cause a major adverse impact on the economy, public order, or the health, welfare, or safety of the people of Hawaii and may not be responsibly managed within the free market distribution system. Further, the governor may require importers of any petroleum product or other fuel to monitor and report to the department of business, economic development, and tourism relevant supply and demand data. The governor shall review the status of a shortage within one hundred twenty days after the governor's initial determination of a shortage as defined under this chapter; thenceforth, the governor shall conduct a review of the shortage to make a new determination every thirty days until a shortage no longer exists. [L 1975, c 38, pt of §1; am L 1979, c 142, §1; am L 1984, c 238, §3; gen ch 1985; am L 1991, c 102, §2]

§125C-3 Powers in a shortage. When a shortage as defined in section 125C-2 exists, the governor or the governor's authorized representative, to ensure that petroleum products are made available to the public in an orderly, efficient, and safe manner, may:

(1) Control the retail distribution and sale of petroleum products by adopting rules that may include, but are not limited to, the following measures:

(A) Restricting the sale of petroleum products to specific days of the week, hours of the day or night, odd- and even-numbered calendar days, and vehicles having less than a specified amount of gasoline in their tanks, with exceptions for certain designated geographical areas;

(B) Restricting sales of petroleum products by dealers to daily allocations, which shall be determined by dividing the monthly allocation by the number of selling days per month;

(C) Requiring dealers to post signs designating their hours of operation and the sell-out of daily allocation;

(D) Instituting a statewide rationing plan; and

(E) Allowing for special handling for commercial and emergency-user vehicles;

(2) Require that a percentage of petroleum products, not to exceed five per cent, be set aside to alleviate hardship; provided that aviation gasoline set aside shall not exceed ten per cent;

(3) Purchase and resell or otherwise distribute petroleum products, and purchase and resell or otherwise distribute ethanol that is produced within the State and can be used as a substitute for petroleum products;

(4) Receive, expend, or use contributions or grants in money or property, or special contributions

thereof for special purposes not inconsistent with this chapter;

(5) Borrow and expend moneys needed to exercise the powers granted under this section;

(6) Contract in the name of the State for the purpose of implementing this chapter or any part thereof; and

(7) Exercise the powers granted under this section to the degree and extent deemed by the governor to be necessary, including the temporary or indefinite suspension of all or part of the measures taken, as the governor deems appropriate. [L 1975, c 38, pt of §1; am L 1984, c 238, §4; gen ch 1985; am L 1992, c 182, §3; am L 1994, c 59, §1

§125C-4 Adopting, filing, and taking effect of rules. The governor or the governor's authorized representative shall adopt rules pursuant to chapter 91, to insure that petroleum products are made available to the public in an orderly, efficient, and safe manner, to become effective when a shortage, as defined in section 125C-2, exists. If additional and unforeseen measures are required to insure that petroleum products are distributed in an orderly, efficient, and safe manner, the governor or the governor's authorized representative may proceed without prior notice or hearing or upon such abbreviated notice and hearing as the governor finds practicable to adopt additional rules authorized under this chapter with the additional rules to be effective for a period of not longer than one hundred twenty days without renewal. Any rule so adopted may be amended or repealed by the governor without prior notice or hearing or upon abbreviated notice and hearing prior to the expiration of the one hundred twenty-day period; provided that no amendment shall extend the rule beyond the original period of one hundred and twenty days. To be effective after the one hundred twenty-day period, the rules shall be adopted pursuant to chapter 91. Each rule adopted, amended, or repealed shall become effective as adopted, amended, or repealed upon approval by the governor and filing with the lieutenant governor. Each rule in effect shall have force and effect of law, but the effect of each rule may be temporarily or indefinitely suspended by the governor by written declaration filed with the lieutenant governor. Each rule temporarily suspended shall take effect again immediately upon expiration of the suspension period. Each rule indefinitely suspended shall take effect immediately upon the filing with the lieutenant governor of the written

declaration by the governor terminating the suspension. [L 1975, c 38, pt of §1; am L 1979, c 105, §10; am L 1981, c 18, §1; am L 1984, c 238, §5; gen ch 1985; am L 1986, c 216, §1]

[§125C-5] Publication of rules and declarations. Within five days after the date of filing with the lieutenant governor of each rule or declaration, the governor shall make the rule or determination known to the persons affected by it by publication at least once in a newspaper of general circulation in the State and in a newspaper that is printed and issued at least twice weekly in the county within which those affected persons reside. [L 1975, c 38, pt of §1]

[§125C-6] Petition for adoption, amendment, repeal, or suspension of rules. Any interested person may petition the governor or the governor's authorized representative requesting the adoption, amendment, repeal, or suspension of any rule and stating reasons therefore. The governor or the governor's authorized representative shall prescribe the form for the petitions and the procedures for their submission, consideration, and disposition, and within thirty days after submission of the petition shall either deny the petition in writing, stating the governor's or the governor's authorized representative's reasons for the denial, or grant the petition and adopt, amend, repeal, or suspend the rule accordingly. [L 1975, c 38, pt of §1; gen ch 1985]

§125C-8 Personnel; delegation of powers. The governor may appoint or employ temporary boards, agencies, officers, employees, and other persons, or any of them, for the purpose of carrying out the provisions of this chapter. All such temporarily appointed or employed officers and employees, whether or not employed by contract, shall be exempt from and not subject to nor entitled to the benefits of the provisions of chapters 76 and 88, or any other law, collective bargaining agreement, executive order, executive directive, or rule that is inapplicable to temporary employees of the State. [L 1975, c 38, pt of §1; am L 2002, c 148, §14]

[§125C-9] Investigations and surveys. The governor or the governor's authorized representative may make investigations and surveys for the purpose of ascertaining facts to be used in administering this chapter, and in making the investigations and surveys, may require the making, filing, or keeping of applications, schedules, records, reports, or statements, under oath or otherwise, administer oaths, take evidence under oath, subpoena witnesses, and require the production of books, papers, and records. Witnesses shall be allowed their fees and mileage as in cases in the circuit

courts. The circuit court of any circuit or judge thereof may enforce by proper proceedings the attendance and testimony of any witness subpoenaed to appear within the circuit, or the production of books, papers, and records. [L 1975, c 38, pt of §1; gen ch 1985]

[§125C-10] Fraud; misdemeanor. Any person required by the governor or the governor's authorized representative, pursuant to section 125C-9, to make, keep or file any application, schedule, record, report, or statement, whether or not under oath, who intentionally makes, files, or keeps a false or fraudulent application, schedule, report, or statement or intentionally conceals therein any material fact, and any person who in any other manner intentionally deceives or attempts to deceive the governor or the governor's authorized representative with respect to any fact to be used in administering this chapter, and any person who intentionally fails to observe and comply with any rule promulgated under this chapter, shall be guilty of a misdemeanor. [L 1975, c 38, pt of §1; gen ch 1985]

§125C-11 REPEALED. L 1992, c 182, §5.

PART II. HARDSHIP SET-ASIDE AND ALLOCATION OF PETROLEUM

PRODUCTS DURING A SHORTAGE

§125C-21 Definitions. "Petroleum product" means heating oils, light and heavy diesel oil, motor gasoline, propane, butane, residual fuel oils, kerosene, and aviation fuels used for emergency and essential intrastate air transport services, but excluding all other aviation fuels.

"Prime supplier" means any individual, trustee, agency, partnership, association, corporation, company, municipality, political subdivision or other legal entity which makes the first sale of any liquid fossil fuel into the state distribution system for consumption within the State. [L 1984, c 238, pt of §7; am L 1994, c 59, §2]

§125C-22 When set-aside required. When a shortage as defined in section 125C-2 exists, all prime suppliers shall set aside supplies of each petroleum product for which there is a shortage. The amount set aside shall be in accordance with the rules adopted by the state energy resources coordinator. [L 1984, c 238, pt of §7]

§125C-23 Set-aside system. The state energy resources coordinator shall adopt rules establishing a petroleum products set-aside system. The purpose of this system shall be:

- (1) The protection of public health, safety, and welfare;
- (2) The maintenance of public services, utilities, and transportation, including emergency and essential intrastate air transport services;
- (3) The maintenance of agricultural operations, including farming, horticulture, dairy, fishing, and related services;
- (4) The preservation of economically sound and competitive industry, through the equitable acquisition and distribution of petroleum products; and
- (5) The promotion of efficiency, with minimum economic disruptions, during a shortage of petroleum products.

The rules establishing the set-aside system shall be adopted in accordance with chapter 91. [L 1984, c 238, pt of §7; am L 1994, c 59, §3]

[PART III.] ENERGY EMERGENCY PLANNING

[§125C-31] Biennial state energy emergency preparedness plan.

(a) The department of business, economic development, and tourism shall prepare a comprehensive and integrated biennial state energy emergency preparedness plan to be implemented in the event of, or in anticipation of, a change in the State's petroleum supply or demand situation that is judged by the governor to be unmanageable by the free market. The department of business, economic development, and tourism shall prepare a biennial state energy emergency preparedness plan in every even-numbered year in accordance with the following:

- (1) The biennial state energy emergency preparedness plan shall replace the energy emergency plan developed by the energy resources coordinator, who shall act as the governor's authorized representative under this chapter;

(2) In preparing the biennial state energy emergency preparedness plan, the department shall:

(A) Solicit input, comment, and review from the governor's energy emergency preparedness advisory committee composed of representatives of federal, state, and county governments; private energy suppliers; consumer and other public interest groups; and the public at-large; and

(B) Establish other task forces and advisory groups, as may be deemed necessary, to assist in the preparation and review of the biennial state energy emergency preparedness plan;

(3) The biennial state energy emergency preparedness plan shall be comprehensive and encompassing, and shall integrate into its analytic and planning framework the plans of electric and gas utilities and other energy suppliers, relevant state agencies, including the department of transportation, counties, and such other entities as deemed appropriate; and

(4) The biennial state energy emergency preparedness plan shall include a review and update of the previous biennial state energy emergency preparedness plan and a review of the energy emergency plans prepared by the counties.

(b) The department shall prepare an energy emergency communication plan, which shall be updated biennially and shall be consistent with the energy emergency preparedness plans prepared by the counties. The energy emergency communication plan shall be used by the State and counties to communicate and otherwise coordinate state and county actions taken in response to implementing the biennial state energy emergency preparedness plan. [L 1992, c 182, pt of §2]

[§125C-32] Biennial county energy emergency preparedness plans. The mayor of each county, or the mayor's authorized representative, shall prepare a comprehensive county energy emergency preparedness plan. The plan shall be prepared in coordination with and be consistent with the biennial state energy emergency preparedness plan, and shall be implemented in coordination with the state energy emergency preparedness

plan upon declaration of an energy emergency by the governor. Not later than September 30 of every even-numbered year, each county shall prepare and transmit to the director of business, economic development, and tourism the county's biennial county energy emergency preparedness plan. [L 1992, c 182, pt of §2]

6.3 HAWAII ADMINISTRATIVE RULES – CHAPTER 15-10

Appendix B
Chapter 15-10
Hawaii Administrative Rules
DEPARTMENT OF PLANNING AND ECONOMIC
DEVELOPMENT
Adoption of Chapter 15-10
Hawaii Administrative Rules
January 26, 1987

1. Chapter 15-10, Hawaii Administrative Rules, entitled "Procurement, Control, Distribution, and Sale of Petroleum Products During Fuel Shortage", is adopted to read as follows:

"HAWAII ADMINISTRATIVE RULES
TITLE 15
DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT
Chapter 10
Procurement, Control, Distribution and Sale
of Petroleum Products During Fuel Shortage
Subchapter 1. General Provisions
§15-10-1 Purpose
§15-10-2 Definitions
Subchapter 2. Retail Sales Measures
§15-10-3 Odd-even sales restrictions
§15-10-4 Minimum and maximum purchase requirements
§15-10-5 Maximum purchase for separate containers
§15-10-6 Posted hours of operation
§15-10-7 Prohibited hours of sale
§15-10-8 Sales limited to daily allocations
§15-10-9 Uniform flag system
§15-10-10 Applicability; violations
Subchapter 3. State Set-Aside Program Rules
§15-10-11 Set-aside system
§15-10-12 Set-aside volume
§15-10-13 Assignment of Set-aside
§15-10-14 Base period
§15-10-15 Supplier liaison to the state
§15-10-16 Price
§15-10-17 Application process for set-aside supplies
§15-10-18 Evaluation of applications
§15-10-19 Decision and authorization of set-aside
assignments
§15-10-20 Time limits for action on applications
§15-10-21 Appeals, Who may file
§15-10-22 When to Appeal

§15-10-23 What to file
§15-10-24 Where to file
§15-10-25 Notice to interested parties
§15-10-26 Contents of appeal
§15-10-27 Processing of appeal
§15-10-28 Criteria for evaluating appeal
§15-10-29 Decision and action
Subchapter 1

General Provisions

§15-10-1 Purpose.

The purpose of this chapter is to provide rules governing the procurement, control, distribution, and sale of petroleum products in the event of a fuel shortage as defined in Section 125C-2, Hawaii Revised Statutes, in compliance with section 125C-4 and 125C-23, HRS.

[Eff FEB 17 1987] (Auth: HRS §§125C-1, 125C-4, 125C-23)
(Imp.: HRS §125C-3, 125C-22)

§15-10-2 Definitions.

As used in this chapter, unless a different meaning clearly appears in the context: "Agricultural production" includes the following:

- (1) Production of cash grains and field crops, including cotton and tobacco; vegetables, melons, fruits, and nuts, including food grown under cover;
horticultural specialties including the growing of flowers, nursery products and seeds; cattle, hogs, sheep, goats, dairy animals and dairy products, poultry and poultry products (including pheasants and quail), and rabbits; bees and honey;
aquaculture, including, fish, frogs, shellfish, prawns, algae, and other aquacultural species used for food;
- (2) Agricultural services, including soil preparation, the planting, cultivating, protection (spraying, dusting, etc.), and harvesting of crops, tobacco stemming and redrying, cotton ginning, and preparation of crops for market;
- (3) Veterinary services for cattle, hogs, sheep, goats, poultry, and other farm animals excluding pets, pet kennels, grooming of horses and other equines, and grooming of pets;

(4) Ornamental shrub and tree services, excluding landscape counseling and planning and lawn and garden services;

(5) Forestry and forestry services including logging camps and logging contractors, sawmills and planing mills;

(6) Commercial fishing, fish hatcheries and preserves, hunting, trapping, and game propagation;

(7) Manufacturing or processing of foods and beverages for human and animal consumption, including soft drinks, beer, wine, ice, and vegetable and animal fats and oils, but excluding dog, cat, and other pet foods, chewing gum, and distilled, rectified, and blended liquors;

(8) Mining, milling, and manufacture of fertilizers, pesticides, and agricultural chemicals;

(9) Farm to market hauling and log trucking; and

(10) Water supply systems for farm irrigation.

"Allocation, daily" means a retail fuel dealer's monthly fuel allocation divided by the number of days in the month on which motor fuel sales will be made.

"Assignment" means an action taken by the shortage management center designating prime suppliers of petroleum products to supply state set-aside fuel to an authorized bulk-purchasing end-user, wholesale purchaser-consumer, or wholesale purchaser-reseller, to alleviate hardship or emergency conditions.

"Base period" means the twelve-month period immediately preceding the governor's official declaration of a fuel shortage; it is intended to provide a supply benchmark for determining an applicant's needs or eligibility for setaside supplies.

"Commercial use" means consumption of fuel by those purchasers engaged primarily in the sale of goods or services and for uses other than those involving industrial activities and electrical generation.

"Consumer" means any individual, trustee, agency partnership, association, corporation, company, municipality, political subdivision, or other legal entity which purchases petroleum products for ultimate consumption in Hawaii.

"Department" means the department of planning and economic development.

"Emergency services" means law enforcement, fire fighting, emergency medical services, and other groups which specifically provide essential emergency services.

"End-user" means any person, firm, or other entity which is an ultimate consumer of a petroleum product.

"Energy production" means the exploration, drilling,

mining, refining (except for petroleum products), processing, production, and distribution of coal, natural gas, geothermal energy, petroleum or petroleum products, shale oil, nuclear fuels, and electrical energy. The definition also includes construction of facilities and equipment and similar capital goods. Excluded from this definition are synthetic natural gas manufacturing, and electrical generation whose power source is petroleum based.

"Firm" means any association, company, corporation, estate, individual, joint venture, partnership, sole proprietorship, or any entity however organized, including charitable and educational institutions and federal, state, and county governments.

"Flag system" means a queue management measure for use during a fuel shortage, whereby colored flags are displayed to indicate whether a retailer has fuel available to the general public, available only to vehicles providing emergency service, or has no fuel available.

"Health care facilities" means those facilities, providing medical, dental, or nursing services, including but not limited to clinics, hospitals, nursing homes and the like.

"Industrial use" means consumption of fuel by firms primarily engaged in a process which creates or changes raw or unfinished materials into another form or product.

"Jitneys" means any relatively fixed-route, sharedride, transportation service offering both fixed and enroute loading unloading of passengers.

"Liter" is the metric unit of liquid volume, now frequently used to measure fuel. One liter is slightly over a quart; one liter equals 1.057 quarts or 0.2642 gallon.

"Maximum purchase for separate containers" means a queue management measure for use during a fuel shortage, in which a maximum of two gallons of fuel may be sold and delivered into a separate container other than a vehicle's fuel tank, for use in lawn mowers and other small gasolinedriven appliances.

"Minimum purchase requirement" means a queue management measure for use during a fuel shortage, whereby a specified minimum dollar amount and volume of fuel must be purchased for a given vehicle during a single transaction. The primary purpose is to prevent customers from purchasing small quantities of fuel simply to keep the tank filled.

"Motor fuel retailer" as used in these rules includes every person, firm, partnership, association, trustee, or corporation owning, leasing, renting, managing, or operating a motor fuel service station or other facility offering for sale or otherwise dispensing motor fuel to the general

public

"Odd-even sales restriction" means a queue management measure for use during a fuel shortage, which specifies that if the license plate number of a customer's vehicle is odd, the customer may purchase fuel only on odd-numbered days of the month, and if the registration number of a customer's vehicle is even, only on even-numbered days.

"Passenger transportation services" means air, water, rail and surface facilities and services, for carrying passengers, whether publicly or privately owned, including but not limited to:

(1) Tour and charter buses and taxis which serve the general public;

(2) Bus transportation of pupils to and from schools and school-sponsored activities;

(3) Vanpool; and

(4) Jitneys.

"Petroleum products" means motor gasoline, diesel fuel, gasohol, kerosene, propane, number 2 heating oil, number 4, number 5, and number 6 residual oil for utility and nonutility uses, and Bunker C fuel.

"Posted hours of operation" means a queue management measure for use in fuel shortage emergencies, requiring fuel retailers to post clearly legible signs indicating the days and hours during which motor fuels will be dispensed to the general public. Certain uniform hours applying to all retail fuel sellers may also be required.

"Prime supplier" means that supplier which makes the first sale of any petroleum product into the state distribution system for consumption within the State. For purposes of the state set-aside, Hawaii refiners are not considered prime suppliers when transferring, exchanging, or selling refined products to major Hawaii marketers (Shell, Chevron, Union, Texaco, Aloha, PRI/HIRI).

"Prohibited hours of sale" means a queue management measure for use during fuel shortage emergencies whereby sales of motor fuel are prohibited during morning and afternoon peak traffic hours to prevent queues from interfering with the flow of traffic.

"Residential use" means direct consumption of fuel in a residence, apartment building, or condominium, or in a church or other place of public worship, for space heating, cooking, water heating, and similar uses.

"Sanitation services" means the collection or disposal or both of solid wastes for the general public, whether by public or private entities, and the maintenance, operation and repair of liquid purification and waste facilities during emergency conditions. The term also includes the provision of water supply services by public utilities,

whether privately or publicly owned and operated.

"Set-aside" means the amount of a prime supplier's petroleum product subject to the provisions of the State set-aside rules and which is made available from that supplier for use by the shortage management center in emergencies and to ease hardships due to fuel shortages or dislocations in distribution.

"Shortage" (of fuel) means a condition which exists whenever the governor determines that there is an increase in the demand for any petroleum product which is five per cent or greater during a current or forthcoming month than the average demand for that product during that month in the immediately preceding two years, and the increased demand has not been met by a corresponding increase in supply of the product in question; or there is a decrease in the available supply of any petroleum product which is five per cent or greater during a current or forthcoming month less than the average supply available during that same month in the immediately preceding two years, and the decrease has not been met by a corresponding decrease in demand for the product in question; and such increase in demand or decrease in supply may cause a major adverse impact on the economy, public order, or health, welfare, and safety of the people of Hawaii, and may not be responsibly managed within the free market distribution system.

"Shortage areas" means a given area or community suffering hardship because of an imbalance in the supply or distribution or both, of petroleum products for whatever reason, such that lines at service stations are longer, hours of dispensing fuel are shorter, and fuel is generally in shorter supply than in other comparable areas. If prime suppliers cannot readily correct the imbalance, then county officials or designated area representatives may apply to the State for hardship set-aside to correct the imbalance, providing documentation of the existence of such an area shortage. For purposes of this definition, an area or community may be a town, city, or unincorporated area; an island; a military base exchange; or any well-defined or recognized area characterized by geographic features (e.g., a valley) or by traditional acceptance as a community.

"Shortage management center" or "SMC" means the office within the state department of planning and economic development designated to manage the state set-aside and other fuel emergency programs.

"Supplier" means any firm or any part or subsidiary of any firm, other than the Federal Department of Defense, which presently supplies, sells, transfers, or otherwise furnishes as by consignment, any petroleum product subject to the State set-aside to wholesale purchasers or end-users,

including refiners, natural gas processing plants or fractionating plants, importers, resellers, jobbers, and retailers.

"Telecommunication services" means the operation, maintenance and repair of voice, telegraph, video, and similar communication services to the public by a communications common carrier.

"Vanpooling" means eight or more persons commuting on a daily basis to and from work by means of a vehicle having a seating capacity of eight to fifteen adult passengers.

"Wholesale purchaser" means a wholesale purchaserreseller or wholesale purchaser-consumer or combination of both.

"Wholesale purchaser-consumer" means any person, firm, or other entity which is an ultimate consumer of fuel and which, as part of its normal business practice, purchases or obtains a petroleum product subject to the state set-aside from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location.

"Wholesale purchaser-reseller" means any person, firm, or other entity which purchases, receives through transfers, or otherwise obtains, as by consignment, a product subject to the State set-aside and resells or otherwise transfers it to other purchasers without substantially changing its form (for example, a service station). [Eff FEB 17 1987]

(Auth: HRS §§125C-1, 125C-4) (Imp: HRS §125C-3)

Subchapter 2

Retail Sales Measures

§15-10-3 Odd-even sales restrictions.

(a) At the retail level, motor fuels shall not be dispensed into any

vehicle on any odd-numbered day of the month (1st, 3rd, 27th, etc.) unless the last numerical digit on the license plate of that vehicle is odd.

(b) At the retail level, motor fuels shall not be dispensed into any vehicle on any even-numbered day of the month (2nd, 4th, 30th, etc.) unless the last numerical digit on the registration (license) plate of that vehicle is even.

(c) In the event that there are no numerical digits, but only letters (e.g., as in some personalized license plates), the registration plate shall be considered even.

(d) For any calendar month consisting of an odd number of days (31, or 29 for February in leap years), fuel sales made on the last day of the month will not be subject to the odd-even restriction, but shall be made without regard to

the license plate of the vehicle.

(e) Motor fuel purchases made at self-service gasoline stations, whether payment is made by insertion of a credit card in a card-reading mechanism, by the use of coinoperated pumps, or by payment to a cashier, shall be governed by the same odd-even rules. During a declared shortage situation, an attendant shall be present to verify the odd or even license number and compliance with other rules as applicable.

(f) Odd-even sales restrictions shall not apply to:

(1) Vehicles in priority categories as provided in section 15-10-18(3) and (4);

(2) Vehicles displaying the Kahili sticker on the windshield indicating a disabled person;

(3) Commercial vehicles marked with an appropriate sticker; or

(4) Vehicles operated in an unusual emergency situation in the judgment of the retail station operator.

(g) When dispensing motor fuel to the general public, motor fuel retailers shall not refuse to sell fuel to anyone for any reason other than non-compliance with this chapter or problems related to payment or credit. Motor fuel retailers shall not require the purchase of special goods or services such as car washes, tires, lubrication, or other goods and services, as a condition to the purchase of motor fuel. In addition, retailers shall not dispense fuel on a preferential basis such as by appointment or to regular customers only.

(h) If fuel supplies are limited to the extent that the simple odd-even system does not relieve queueing to a sufficient extent, alternative systems may be put into effect by executive order of the governor. For example, a three-day/Sunday closing plan shall permit purchase of gasoline only twice a week: license numbers ending in 0, 1, 2 and 3 shall purchase fuel on Monday and Thursday; 4, 5, 6, and 7 on Tuesday and Friday, and 8, 9, and letters on Wednesday and Saturday. Stations shall be closed for gasoline sales on Sundays. Still other arrangements may permit purchasing fuel only once a week or at other intervals.

[Eff FEB 17 1987] (Auth: HRS §§125C-1, 125C-4) (Imp: HRS §125C-3)

§15-10-4 Minimum and maximum purchase requirements

(a) Specific minimum dollar amount or volume of motor fuel shall be purchased for a single vehicle during a single transaction. When the minimum amount specified, in the

governor's executive order is a whole dollar amount, it shall include all applicable taxes. If the vehicle's tank cannot hold the entire amount of fuel covered by the minimum dollar amount or volume, the retailer may collect the total amount of the required minimum sale. Under no circumstances shall a separate container be used for fuel to make up the difference between the vehicle's capacity and the specified minimum purchase. Signs clearly detailing the minimum purchase rule shall be displayed on each motor fuel pump at every retail station.

(b) The minimum purchase requirement restriction shall not apply to the following:

(1) Vehicles having a tank capacity of eight gallons or less;

(2) Motorcycles, mopeds, and similar two or three wheeled vehicles;

(3) Police, fire, ambulance, or other emergency vehicles; or

(4) Vehicles operated in an unusual emergency situation in the judgment of the retail station operator.

(c) No sale of fuel shall be made in excess of twentyfive gallons or ninety-five liters. This restriction shall not apply to commercial vehicles marked with an appropriate sticker. (Eff FEB 17 1987] (Auth: HRS §§125C-1, 125C-4) (Imp: HRS §125C-3)

§15-10-5 Maximum purchase for separate containers

Not more than two gallons or eight liters of motor fuel shall be sold or purchased for delivery into a "safety approved" container other than the fuel tank of a vehicle, to be transported away from the premises of a retail seller. This restriction shall not apply to containers to be used for a commercial purpose, such as for fueling commercial landscaping or construction equipment, electrical generators, etc.

[Eff FEB 17 1987] (Auth: HRS §§125C-1, 125C-4) (Imp: HRS §125C-3)

§15-10-6 Posted hours of operation

(a) Each motor fuel retailer shall post signs clearly legible from off the premises indicating the days and hours during which motor fuels shall be dispensed to the general public. The signs may include, but are not limited to, the weekend day and time the station will be open. The retailer shall dispense motor fuel during the days and hours posted on the sign. The opening time shall be stated. Other selling times shall

also be stated, but may be qualified with the statement "if daily gas allocation still available" or other similar language. If a queue exists when a retailer nears the end of the retailers daily allocation of fuel or nears closing time for the sale of fuel, a sign may be placed on the rear of the last vehicle the retailer reasonably feels may be serviced, stating "LAST CAR FOR GAS."

(b) Every motor fuel retailer shall open for public sale of fuel at or before 6:00 a.m., Monday through Friday, unless exempted. Stations may continue public sales at any other times not expressly prohibited by this chapter.

(c) Weekend and holiday sales of motor fuel shall be coordinated by the division of measurement standards, state department of agriculture, so that to the extent possible, at least one station in each area shall have pumps open on weekends and holidays during the hours from 8:00 a.m. to 5:00 p.m. unless at least one-sixth of the retailer's weekly motor fuel allocation is sold before 5:00 p.m. This subsection shall not apply to any motor fuel retailer who is out of fuel because of later delivery or who has fewer than three pumps installed at the retail station.

(d) Motor fuel retailers having regular commercial customers who are in priority category (as provided in section 15-10-18 (3) and (4) shall establish certain hours of operation, which shall be posted in accordance with subsection (a), to service priority and commercial customers who are not subject to the restrictions which apply to the general public. Such commercial vehicles shall be issued a sticker indicating their priority and exemption from the restrictions.

[Eff FEB 17 1987] (Auth: HRS §§125C-1, 125C-4) (Imp: HRS §125C-3)

§15-10-7 Prohibited hours of sale

The dispensing of fuel by motor fuel retailers may be prohibited during certain hours in urban or congested areas to prevent queues from interfering with peak hour traffic flow. For example, that dispensing may be prohibited between 7:00 a.m. and 8:15 a.m. and between 4:00 p.m. and 6:00 p.m., Monday through Friday in the city and county of Honolulu. [Eff FEB 17 1997] (Auth: HRS §§125C-1, 125C-4) (IMP: HRS §125C-3)

§15-10-8 Sales limited to daily allocations

Motor fuel retailers shall manage their monthly fuel supply so that it will last through the month. A daily allocation of fuel shall be determined by dividing the dealer's monthly fuel supply allocation by the number of days in the month on which motor fuel sales shall be made. A motor fuel retailer may sell up to ten per cent of the next day's allocation in addition to the current day's allocation, provided that the following day's sale of fuel is reduced by the amount.

[Eff FEB 17 1987] (Auth: HRS §§125C11, 125C-4) (Imp: HRS §125C-3)

§15-10-9 Uniform flag system

(a) Motor fuel retailers shall indicate their fuel supply and service situation by the display of a flag at least eighteen inches square and easily visible from off the premises. The flags shall have the following colors and corresponding meanings:

(1) Green flag means motor fuel is available to the general public;

(2) Red flag means motor fuel is not available and the station is closed or open only for auto servicing; and

(3) Yellow flag means motor fuel is available only to emergency vehicles or others exempt from the order and the station is open for auto servicing.

(b) If a retailer is out of any grade of motor fuel but is otherwise still dispensing fuel to the general public, the retailer shall attempt to the best of the retailer's ability to indicate by means of signs which grades are not available.

[Eff FEB 17 1987] (Auth: HRS §§125C-1, 125C-4) (Imp: HM §125C-3)

§15-10-10 Applicability; violations

(a) Unless otherwise specified, this chapter shall apply to a:

(1) Vehicle operator;

(2) Motor fuel retailers; or

(3) Motor fuel retailer or an employee thereof.

(b) A violation of these rules may result in a criminal charge against any or all of the persons specified in subsection (a). [Eff FEB 17 1987] (Auth: HRS §§125C-1, 125C-4) (Imp: HRS §125C-3)

State Set-Aside Program

§15-10-11 Set-aside system

(a) In the absence of a federally authorized set-aside system, the governor or a authorized representative, in order to manage an energy shortage within the State, may implement a state set-aside system for any or all of the following petroleum products: motor gasoline, diesel fuel, heating oil, kerosene, propane, and residual fuel oil.

(b) A shortage management center (SMC) within the department shall direct prime suppliers to make available to the State each month a percentage, not to exceed five per cent of the total amount of each designated petroleum product which they expect to make available for sale within the State during that month. The SMC shall assign set-aside supplies to meet the emergency and hardship needs of wholesale purchaser-consumers, particularly those in certain priority categories such as police and fire departments, medical and health care, public transportation, etc. Additionally, the set-aside program shall permit the SMC to make assignments of fuel to commercial and priority endusers who customarily purchase fuel from a wholesale purchaser-reseller, through the appropriate supplier, to alleviate hardships, and also through the appropriate suppliers, to alleviate unusual shortage conditions in a shortage area. [Eff FEB 17 1987] (Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23)

§15-10-12 Set-aside volume

(a) The SMC shall notify each prime supplier of the monthly set-aside percentage, not to exceed five per cent, applicable to each product subject to the set-aside program. Prime suppliers shall be notified of set-aside percentages not later than fifteen days prior to the beginning of each allocation month.

(b) The total set-aside volume available to the SMC for any particular month shall be the sum of the amounts calculated by multiplying the state set-aside percentage level by each prime supplier's estimated supply for that month which will be sold into the state's distribution system for consumption within Hawaii. The set-aside for a particular month shall not be accumulated or deferred by the State, but shall be made available from current monthly

stocks of prime suppliers.

(c) The SMC shall confirm the set-aside volume for a particular month from the supplier's monthly report (Form EIA 782C which shall be received by the SMC not later than five working days prior to the first day of the applicable month.

[Eff FEB 17 1987] (Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23)

§15-10-13 Assignment of set-aside

(a) At any time during the month the SMC may order the assignment of all or part of a prime supplier's set-aside volume through the prime supplier's normal distribution system in the State.

(b) The SMC shall assign set-aside to meet emergency and hardship requirements of all wholesale purchaserconsumers and end-users who customarily purchase fuel from wholesale purchaser-resellers. The SMC may direct a prime supplier to supply set-aside to a wholesale purchaserconsumer or bulk-purchasing end-user directly, or to supply set-aside through the appropriate supplier to a commercial or priority end-user who purchases fuel at retail.

(c) The SMC shall not authorize assignment of set-side fuel for requests involving less than fifty gallons, except in special cases.

(d) From time to time, the SMC may designate shortage areas. At any time during the month, the SMC may order some or all of the prime suppliers having retail outlets in such shortage areas to release part or all of their remaining set-aside volume through their normal distribution systems to increase the allocations of all suppliers' retail outlets located within such shortage areas.

(e) Orders issued by the SMC in accordance with this section shall be in writing and effective immediately upon presentation to the prime supplier's set-aside volume for the month of issuance, even if for some reason delivery cannot be made until the following month.

(f) The SMC shall assign set-aside at the beginning of the month if an applicant can demonstrate that a supply emergency or hardship is faced which requires immediate attention. By the fifteenth day of the month, the SMC shall make an initial determination as to how much of the setaside shall be released to prime suppliers. Any set-aside products not allocated by the twentieth of the month shall automatically revert to the supplier. [Eff FEB, 17 1987]

(Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23)

§15-10-14 Base period

(a) A base period shall be adopted by the SMC and shall be used as a historical benchmark from which the SMC shall evaluate the validity of any application for set-aside assignment. The base period for all applicants shall be the twelve month period immediately preceding the official declaration of a shortage by the governor.

(b) All fuel made available to applicants shall be assigned, when possible, to the supplier distribution system from which the applicant purchased fuel during the base period

(c) Prime suppliers shall be responsible for smoothing out anomalous situations in their customers' base periods, such as a business being closed during a portion of the base period.

(d) All applicants for set-aside shall be required to list on each application their base period purchases and the names of their base period prime suppliers or distributors, or both. [Eff FEB 17 1987] (Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23)

§15-10-15 Supplier liaison to the State

Each prime supplier shall designate a person to act as a liaison for and on behalf of the prime supplier with respect to the setaside system. Each prime supplier operating within the State shall notify the SMC in writing of the designation within ten day of the implementation of a set-aside program. [Eff FEB 17 1987] (Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23)

§15-10-16 Price

Each supplier shall make available to bulk purchasing end-users, wholesale purchaser-consumers, or wholesale purchaser-resellers at prices prevailing for similar classes of purchasers from that supplier in the locality of the set-aside purchaser at the time of sale of the product. Suppliers shall charge prevailing prices for set-aside products, and shall not place a premium or spot price on set-aside volumes except to recover documented extra transportation costs to deliver the set-aside fuel in accordance with the supplier's normal business practice. Any report of unjustifiable prices charged to an applicant for set-aside fuel may be investigated by the SMC or the state attorney general. [Eff FEB 17 1987] (Auth: HRS

§125C-23) (Imp: HRS §§125C-22, 125C-23)

§15-10-17 Application process for set-aside supplies

(a) An applicant may be a wholesale purchaser-consumer seeking an assignment from the set-aside program to meet a hardship or emergency, or a commercial or priority end-user who customarily purchases fuel from a retail fuel outlet (service station) or jobber and who has a hardship or emergency situation. Wholesale purchaser-resellers are not eligible to apply for set-aside.

(b) Application for assignment for fuel from the setaside supplies shall be made in writing or by telephone. The appropriate form to file is state form SMC-1, which may be obtained from the SMC or other designated agencies. Whether verbal or written, applicants must provide at least the following:

- (1) The applicant's name, address, and telephone number;
- (2) Name of the applicant's contact person;
- (3) Category of the applicant (wholesale purchaser-consumer or commercial retail purchaser);
- (4) Name of the applicant's supplier product brand and type;
- (5) Delivery location;
- (6) A list of the applicant's monthly purchases of fuel during the twelve months immediately preceding the State's declaration of a shortage emergency. In addition, wholesale purchaser-consumers shall state the nature of their emergency or hardship and the efforts made to manage the situation and to conserve fuel;
- (7) Any previous assignment order from the setaside system that was issued to applicant;
- (8) A statement that the applicant's historical supplier is unable to supply the applicant's requirements through normal channels, or if the applicant does not have a supplier, a statement that the applicant has contacted two suppliers who could not supply the applicant with the requested product, and showing the identity of such suppliers; and
- (9) Any other relevant information requested by the SMC.

(c) All applicants shall submit their application for set-aside supplies to the SMC by the fifteenth of the month for which fuel is being allocated. If the fifteenth falls

on a weekend or on a state or federal holiday, the application shall be filed by the preceding workday. Only emergency applications shall be received after that date.

(d) Applications shall be filed with the Hawaii Shortage Management Center, Department of Planning and Economic Development.

(e) Applicants on the neighbor island shall file applications through their respective county fuel office, from which county fuel office shall promptly forward the application to the SMC with any added recommendations by the county.

[Eff FEB 17 1987] (Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23)

§15-10-18 Evaluation of application

(a) The SMC may initiate an investigation of any statement in an application, whether written or oral, and use in its evaluation any relevant facts obtained by that investigation. All applications and information contained therein are considered confidential and shall not be disclosed. In evaluating an application, the SMC may consider any source of information.

(b) The SMC may dismiss an application without prejudice if the SMC determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted. If the failure to supply additional information is repeated or willful, the SMC may dismiss the application with prejudice.

(c) First priority for set-aside shall go to wholesale purchaser-consumers and end-users who buy either directly from prime suppliers or from wholesale purchaser-resellers and are involved in any of the following activities:

- (1) Agricultural production, including agricultural trucking and agricultural aviation;
- (2) Aviation ground support vehicles and equipment;
- (3) Cargo, freight, and mail hauling truck;
- (4) Emergency services;
- (5) Energy production;
- (6) Health care facilities;
- (7) Nonmilitary marine shipping;
- (8) Public utilities;
- (9) Mass passenger transportation services;
- (10) Sanitation services;
- (11) Telecommunication services; or
- (12) Street and highway maintenance, and repair.

(d) Second priority for set-aside shall go to all wholesale purchaser-consumers and end-users not listed in

subsection (c).

(e) In addition to meeting the needs or priority endusers or wholesale purchaser-consumers, the SMC may assign set-aside in accordance with section 15-10-13.

(f) The SMC may add to, delete from, or otherwise amend the priority classification when the amendment is accomplished by written justification. The amendments shall be publicly announced and advertised. [Eff FEB 17 1987]

(Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23)

§15-10-19 Decision and authorization of set-aside assignments

(a) Upon consideration of the application, and other relevant information received or obtained during its evaluation, the SMC shall make a decision denying or granting the application.

(b) Upon granting a set-aside, the SMC shall issue to the applicant an order authorizing such assignment. The order shall state that it is effective upon issuance and shall expire unless the applicant presents a copy of the order to the prime supplier or a designated representative thereof with ten days of the issuance of the order. The SMC shall mail copies of the order to the applicant and to the state representative of the designated prime supplier. Prime Suppliers shall provide the assigned amount of a product specified in the order upon its receipt or presentation by the applicant.

[Eff FEB 17 1987] (Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23).

§15-10-20 Time limits for action on applications

(a) If the SMC fails to take action on an application, whether oral or written, within fifteen days of filing then the applicant may treat the application as having been denied and may appeal therefrom as provided in this chapter. If the application is oral it shall be considered filed on the date that it is orally communicated to the SMC, and an application shall be completed and filed within 24 hours of the telephone call by the person receiving the call.

(b) The SMC may temporarily suspend the fifteen day limit described in subsection (a), by mailing a notice to the applicant that additional information is necessary to evaluate the application or that the application is improperly filed. That temporary suspension shall remain in effect until the SMC mails the applicant a notice that the additional information requested has been received and accepted or that the application has been properly filed, as appropriate. Unless otherwise provided in writing by the

SMC, the fifteen day period shall resume on the first working day following the date on which the SMC mails applicant the notice that it has received and accepted the additional information or that the application has been properly filed. [Eff FEB 17 1987] (Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23)

§15-10-21 Appeals; Who may file

(a) Any person may file an appeal if aggrieved by a set-aside order issued by the SMC.

(b) An appeal shall not be filed regarding a set-aside request that has been reduced by the SMC by a set percentage for all applicants in the same priority category. [Eff FEB 17 1987] (Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23)

§15-10-22 When to appeal

Any appeal of a SMC order regarding a set-aside application shall be postmarked not later than fifteen days after the postmark date of the decision which is being appealed. [Eff FEB 17 1987] (Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23)

§15-10-23 What to file.

(a) A person appealing a SMC order shall file:

- (1) A written "Appeal of Order" which should be clearly labeled as such, both on the appeal and on the outside of the envelope in which the appeal is transmitted, and shall be signed by the person filing the appeal; and
- (2) A copy of the order which the appellant is appealing.

(b) If the appellant wishes to claim confidential treatment for any information contained in the appeal or other documents submitted under this subsection, the appellant shall file together with the appeal a second copy of the document from which has been deleted the information for which the appellant wishes to claim confidential treatment. The appellant shall indicate in the original "Appeal of Order" that is confidential or contains confidential information and shall file a statement specifying the justification for non-disclosure of the information for which confidential treatment is claimed. [Eff FEB 17 1987] (Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23)

§15-10-24. Where to file

Appeals from State setaside orders shall be filed with the SMC, Department of Planning and Economic Development.

ATTENTION: State Set-Aside Appeals.

[Eff FEB 17 1987] (Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23)

§15-10-25 Notice to interested parties

(a) The appellant shall send, in a manner that it shall be received on the next following day, a copy of the appeal and any subsequent amendments or other documents relating to the appeal, or a copy from which confidential information has been deleted in accordance with section 15-10-23 (b), to each person who is likely to be aggrieved by the action sought, including those who participated in any prior proceedings regarding the subject application for set aside supplies. The copy of the appeal shall be accompanied by a statement that the person may submit comments regarding the appeal to the SMC within three day. The appeal shall include certification that the appellant has complied with the requirements of this subsection and shall include the names and addresses of each person to whom a copy of the appeal was sent.

(b) Notwithstanding subsection (a), if an appellant determines that compliance with that subsection would not be practicable, the appellant shall:

(1) Comply with the requirements of subsection

(a) with regard to those persons for whom it is reasonable and possible to notify; and

(2) Include with the appeal a description of the persons or class or classes of persons to whom notice was not sent.

The appellant may be required to provide additional or alternative notice, or it may be determined that the notice required by subsection (a) is not practicable.

[Eff FEB 17 1987] (Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23)

§15-10-26 Contents of appeal

(a) The appellant shall specify the precise legal and factual bases for the appeal, fully explaining why the appellant believes the SMC's order was wrong and why the appellant's particular situation constitutes a hardship or emergency requiring the appellant to receive fuel under the State set-aside program. The State shall assign fuel only if the

appellant can demonstrate that the appellant is experiencing a hardship or emergency.

(b) To assist the SMC in processing the appeal and to ensure that the appellant's position is fully understood, the "Appeal of Order" shall include at least the following:

- (1) The action number assigned by the SMC and found on the Order or the letter of denial;
 - (2) The month for which set-aside was applied;
 - (3) The exact reasons why the appellant believes the decision made by the SMC is erroneous;
 - (4) A statement indicating that new or additional information is submitted and an explanation as to why the information was not submitted with the original application;
 - (5) An estimate of the minimum amount of fuel needed to carry on the appellant's activities;
 - (6) The distance to the nearest retail outlet and whether the appellant has attempted to obtain fuel from that outlet, and an explanation if the appellant has not done so;
 - (7) A statement of all efforts the appellant has undertaken in appellant's operations to conserve fuel;
 - (8) A statement as to what will happen to the appellant's operations if the appellant does not receive the requested set-aside fuel; and
 - (9) Any other reasons why appellant believes that the circumstances entitle appellant to receive set-aside assistance for instances of hardship or emergency. [Eff FEB 17 1987]
- (Auth: HRS §125C-23) (IMP: HRS §§125C-22, 125C-23)

§15-10-27 Processing of appeal

(a) The SMC may initiate an investigation of any statement in an appeal and use in its evaluation any relevant facts obtained by such investigation. The SMC may solicit and accept submissions relevant to any appeal provided that the appellant is afforded an opportunity to respond to all submissions. In evaluating an appeal, the SMC may consider any other sources of information.

(b) If the SMC determines that there is insufficient information upon which to base a decision and if, upon request, the necessary additional information is not submitted, the SMC may dismiss the appeal, with leave to amend within a specified time. If the failure to supply

additional information is repeated or wilful the SMC may dismiss the appeal with prejudice. If the appellant fails to provide the notice required by section 15-10-21 (5), the SMC may dismiss the appeal without prejudice. If the appellant submits false statements that appellant may be subject to prosecution.

[Eff FEB 17 1987] (Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23)

§15-10-28 Criteria for evaluating appeal

(a) An appeal may be summarily denied if:

(1) It is not filed in a timely manner, unless good cause is shown for any delay;

(2) It is apparent that the appeal has failed to state, and to present facts and legal argument in support thereof, that the SMC's action was erroneous in fact or in law, or that it was arbitrary or capricious.

(3) The appellant does not establish that the appeal was filed by a person aggrieved by the SMC action; or

(4) The appellant has failed to meet its burden of proof as to why the SCM's decision should be reversed.

[Eff FEB 17 1987] (Auth: HRS §125C-23) (Imp: HRS §125C-22, 125C-23)

§15-10-29 Decision and actions

(a) Any appeal filed shall be acted upon by the SMC within fifteen days of the postmarked date of the appeal.

(b) Upon receipt of a letter of appeal, the SMC shall send a letter to the appellants acknowledging its receipt. The letter of appeal and any information submitted, with it shall be immediately scheduled for reconsideration. The SMC shall have three working days within which to reconsider the appealed decision. During this reconsideration process the SMC shall contact the appellant by telephone. The reconsideration shall result in the SMC:

(1) Reversing its prior decision and granting the appellant all the fuel for which appellant has applied;

(2) Granting an increase in the amount originally assigned, although the increase may be less than the amount originally requested; or

(3) Affirming the prior decision.

(c) If the SCM reverses its prior decision and grants appellant the total amount of fuel originally requested, no

further action is necessary other than notifying the appellant of the decision, and notifying the supplier to supply the appropriate amount of fuel.

(d) If the SMC grants appellant an increase in the amount of fuel, but the amount granted is less than the amount originally applied for, the appellant may accept the increased amount in satisfaction of the appeal, thereby ending the appeal, or the appellant may choose to request a review of the appeal by the Energy Resources Coordinator (ERC). In the latter case, the ERC will make an independent and final determination regarding the appeal.

(e) If the SMC affirms its initial decision, the ERC shall make an independent and final decision on the merits of the appeal if the appellant appeals from the SMC's affirmance of its prior decision.

(f) A decision of the ERC constitutes the final administrative remedy available to an applicant for setaside supplies." [Eff FEB 17 1987] (Auth: HRS §125C-23) (Imp: HRS §§125C-22, 125C-23)

2. The adoption of chapter 15-10, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on FEB 17 1987, and filed with the Office of the Lieutenant Governor.

6.4 OTHER REFERENCES / DOCUMENTS

CHAPTER 196
[ENERGY RESOURCES]

Part I. General Provisions

Section

- 196-1 Findings and declaration of necessity
- 196-2 Definitions
- 196-3 Energy resources coordinator
- 196-4 Powers and duties

PART I. GENERAL PROVISIONS

Note

Sections 196-1 to 196-7 designated as Part I by L 2002, c 77, §10.

Developing guidelines. L 2002, c 77, §§11 to 14.

§196-1 Findings and declaration of necessity. The legislature finds that:

- (1) The global demand for petroleum and its derivatives has caused severe economic hardships throughout the State and threatens to impair the public health, safety and welfare.

The State of Hawaii, with its total dependence on imported fossil fuel, is particularly vulnerable to dislocations in the global energy market. This is an anomalous situation, as there are few places in the world so generously endowed with natural energy: geothermal, solar radiation, ocean temperature differential, wind, waves, and currents--all potential non-polluting power sources;

- (2) There is a real need for strategic comprehensive planning in the effort towards achieving full utilization of Hawaii's energy resource programs and the most effective allocation of energy resources throughout the State. Planning is necessary and desirable in order that the State may recognize and declare the major problems and opportunities in the field of energy resources. Both short-range and long-range planning will permit the articulation of:
 - (A) Broad policies, goals, and objectives;
 - (B) Criteria for measuring and evaluating accomplishments of objectives;
 - (C) Identification and implementation of programs that will carry out such objectives; and

- (D) A determination of requirements necessary for the optimum development of Hawaii's energy resources.

Such planning efforts will identify present conditions and major problems relating to energy resources, their exploration, development, production, and distribution. It will show the projected nature of the situation and rate of change and present conditions for the foreseeable future based on a projection of current trends in the development of energy resources in Hawaii;

- (3) There are many agencies of the federal, state, and county governments in Hawaii, as well as many private agencies, engaged in, or expressing an interest in, various aspects of the exploration, research, distribution, conservation, and production of all forms of energy resources in Hawaii. Some of these agencies include the University of Hawaii, the department of land and natural resources, the department of business, economic development, and tourism, the division of consumer advocacy, the federal energy office, and various county agencies, as well as the oil companies, gas stations, and other private enterprises; and
- (4) There is immediate need to coordinate the efforts of all these agencies, establish and coordinate programs to effectuate the conservation of fuel, to provide for the equitable distribution thereof, and to formulate plans for the development and use of alternative energy sources. There is a need for such coordination so that there will be maximum conservation and utilization of energy resources in the State. [L 1974, c 237, §1; am L 1987, c 336, §7; am L 1990, c 293, §8; am L 2006, c 96, §5]

§196-2 Definitions. As used in this chapter, unless the context requires otherwise:

"Coordinator" means the energy resources coordinator.

"Energy resources" means and includes fossil fuel, nuclear, geothermal, solar, hydropower, wind, and other means of generating energy.

"Townhouse" means a series of individual houses, having architectural unity and a common wall between each unit. [L 1974, c 237, §2; am L 1993, c 15, §1]

§196-3 Energy resources coordinator. The director of business, economic development, and tourism shall serve as energy resources coordinator. [L 1974, c 237, §3; am L 1978, c 136, §1; am L 1991, c 31, §1]

§196-4 Powers and duties. Subject to the approval of the governor, the coordinator shall:

- (1) Formulate plans, including objectives, criteria to measure accomplishment of objectives, programs through which the objectives are to be attained, and financial requirements for the optimum development of Hawaii's energy resources;
- (2) Conduct systematic analysis of existing and proposed energy resource programs, evaluate the analysis conducted by government agencies and other organizations and recommend to the governor and to the legislature programs which represent the most effective allocation of resources for the development of energy sources;
- (3) Formulate and recommend specific proposals, as necessary, for conserving energy and fuel, including the allocation and distribution thereof, to the governor and to the legislature;
- (4) Assist public and private agencies in implementing energy conservation and related measures;
- (5) Coordinate the State's energy conservation and allocation programs with that of the federal government, other state governments, governments of nations with interest in common energy resources, and the political subdivisions of the State;
- (6) Develop programs to encourage private and public exploration and research of alternative energy resources which will benefit the State;
- (7) Conduct public education programs to inform the public of the energy situation as may exist from time to time and of the government actions taken thereto;
- (8) Serve as consultant to the governor, public agencies and private industry on matters related to the acquisition, utilization and conservation of energy resources;
- (9) Contract for services when required for implementation of this chapter;
- (10) Review proposed state actions which the coordinator finds to have significant effect on energy consumption and report to the governor their effect

on the energy conservation program, and perform such other services as may be required by the governor and the legislature;

- (11) Prepare and submit an annual report and such other reports as may be requested to the governor and to the legislature on the implementation of this chapter and all matters related to energy resources; and
- (12) Adopt rules for the administration of this chapter pursuant to chapter 91, provided that the rules shall be submitted to the legislature for review. [L 1974, c 237, §4; am L 1978, c 136, §2; gen ch 1985]

Cross References

County development of alternative energy resources, see §46-19.